



Tenants Union of Victoria
response to

**Victorian Civil and Administrative Tribunal
(Fees) Regulations**

May 2016

Yes, what else but home?

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Tenants Union of Victoria

The Tenants Union of Victoria (TUV) welcomes the opportunity to provide feedback to the proposed new fee structure for the Victorian Civil and Administrative Tribunal (VCAT).

The TUV was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents across the state. We assist about 19,000 private and public renters in Victoria each year. Our purpose is to improve the status, rights and conditions of all tenants in Victoria.

During 2014/15, the TUV handled more than 19,200 enquiries. TUV provided advocacy on behalf of tenants in almost 880 matters, represented tenants in over 225 hearings at VCAT or other Courts, undertook 350 outreach visits to 250 rooming houses, caravan parks and services.

Residential Tenancies List at VCAT

The Residential Tenancies List (RT List) is the busiest list at VCAT, accounting for 70 per cent of VCAT applications. Of the 59,184 applications made in 2015/16, the vast majority were made by estate agents and landlords, with less than 7 per cent of applications lodged by tenants. Despite this in 2014/15 Consumer Affairs Victoria (CAV) received almost 74,000 enquires about residential tenancy issues¹, and TUV received almost 20,000 enquiries².

The RT List is wholly funded by the Residential Tenancies Fund which comes from the interest accumulated from tenants' bonds held by the Residential Tenancies Bond Authority. In 2015/16 VCAT received \$12.24 million for the Residential Tenancies Fund and outlaid \$12.99 million on the RT List³.

The number of tenants applying to VCAT is staggeringly low in comparison to the number of landlord/estate agents who apply; as a general principle we support measures that encourage tenants to access VCAT services.

¹ Consumer Affairs Victoria Report on Operations 2014-15, *Making markets fair*, p15
<https://www.consumer.vic.gov.au/annual-report/our-performance/annual-report-on-operations-2014-15>.

² Tenants Union of Victoria *Annual Report* 2015-16.

³ VCAT *Annual Report* 2014-15 p39 https://www.vcat.vic.gov.au/system/files/2014-2015_vcat_annual_report.pdf.

VCAT (Fees) Regulations 2016

Concessional fee of \$0

TUV supports a no cost option for tenants with concession cards. This measure ensures that those struggling financially still have access to VCAT services. This is particularly important because of the vital role housing plays in broader wellbeing; and because of the inherent imbalance of power that exists between landlords and tenants, resulting and the need for an external body to assist in dispute resolution.

Daily hearing fees

There is some concern over the potential cost for applications with non-monetary value under the RT List. It is noted that the following fees have been detailed in the VCAT (Fees) 2016 Regulations Regulatory Impact Statement:

- *For matters with a value between \$1 and \$10,000: **Standard fee \$58.40 (\$0 concession)***
- *For matters with a value exceeding \$10,000: **Standard fee \$169.60 (\$0 concession)***

Hearing day fees (do not apply to matters valued between \$1 and \$10,000)

- *Day 1 except for matters valued between \$1 and \$100,000: **Standard fee \$324.40 (concession \$0)***
- *Day 2-4: **Standard fee \$324.40 (concession \$0)***

Additionally Part 3 of the VCAT (Fees) Regulations 2016 states that:

19. For hearing a proceeding for which a fee is payable under Part 1 of this Schedule on commencement, for each day or part of the day, if the proceeding is-

(c) for a claim that is not for a sum, or is for an unspecified sum, or is for a sum more than \$10,000-

*(i) day 1, for a proceeding that is a VicSmart proceeding, a proceeding under section 80 of the Planning and Environment Act 1987 or a claim for specified sum that is not more than \$100,000 **nil***

*(ii) day 1, otherwise **35 fee units***

It appears that non-monetary applications may be charged the hearing day fee. This is something that is not currently occurring under the RT List and would

greatly reduce tenants' access to justice. The RT list has a high number of non-monetary matters that can be heard. These include; applications for restraining orders, applications for repairs, and applications to challenge a notice to vacate. These applications aren't necessarily complex and should be charged accordingly.

It is important that a tenant wishing to challenge a notice to vacate or to urge their landlord to undertake repairs is not charged a high fee as it would discourage tenants' accessing their rights through VCAT. As the proportion of tenants accessing VCAT is so low it is important to ensure that tenants are not further discouraged from utilising VCAT services.

R1. Non-monetary matters heard under the RT list should not incur a hearing day fee.

Fees for review applications

We note that there is no fee detailed under the RT List for non-attendance (review) applications. We assume this indicates that they will remain cost-free and we are supportive of this.

Tenants paying VCAT fees

The Residential Tenancies List at VCAT is wholly funded through interest on tenants' bonds held by the Residential Tenancies Bond Authority; consequently the TUV and other organisations believe tenants should never be required to pay fees to access VCAT as an applicant or respondent. When a tenant pays a VCAT application fee they are essentially paying twice, through foregone interest on their bond and again through the fee.