

Ending your lease early

A fixed-term rental agreement, or lease, is a contract. If you want to end yours early, you may need to pay 'lease-break' costs because you are breaking a contract.

There are limited ways that you can end your fixed term lease early without incurring these costs, or with lower costs. These are explained below.

Renters are often told that must pay lease-breaking costs, even when they ended their lease in a way where no lease-breaking costs should be charged. You can dispute this at VCAT, the Victorian Civil and Administrative Tribunal.

If the landlord (officially called the rental provider) wants to get any lease-breaking costs from you, they must either reach an agreement with you or make a claim to VCAT.

VCAT will arrange a hearing and make a decision about lease-breaking costs there. At the hearing you need to prove your reason for ending the lease or challenge the landlord's claim for lease-break costs.

Ending a periodic lease

If you are ending a periodic lease (month by month) after the end of a fixed-term lease you do not need to pay lease-breaking costs.

You still need to give a 'notice of intention to vacate' to the landlord. It must be in writing, signed by you, and include the required notice period and the date that you will move out and return the keys.

You must give at least 28 days notice of your intention to vacate. The date you give to move out and return the keys must be on or after the last day of the fixed-term lease.

In some circumstances, which are covered in this fact sheet, the notice period is shorter.

We recommend you use Consumer Affairs Victoria's [Notice of intention to vacate](#) form for the notice so you do not miss any important information.

Lease-breaking costs

If you break the lease, the landlord can claim compensation from you for reasonable costs. These include:

- A reletting fee (usually one or 2 weeks rent)
- Reasonable advertising costs
- Rent until a new renter moves in or the end of the fixed term, whichever is first

The first 2 costs should be on a 'pro rata' basis for the months left on the lease. For example, if 3 of 12 months are left, the landlord can claim 25% of their reletting fee and advertising costs. Renters are only liable for these costs if they broke the initial fixed-term lease, and not a renewed fixed-term lease.

Pay your rent up to and including the day you return your keys. Stop paying rent after that.

The landlord does not have the right to make you pay indefinitely until a new renter is found or the fixed term ends, even if this is in your lease. Instead inform the landlord that you are willing to negotiate compensation when a new renter is found. This motivates them to find a new renter.

If the landlord makes a compensation claim to VCAT for lost rent, VCAT may consider whether they have tried to minimise their loss. This includes whether they have taken suitable steps to find a new renter in time. If the landlord delays advertising the property or sets a high rent, at VCAT you can argue that you should not have to pay them the full amount of compensation.

Breaking a lease with minimal or no extra costs

Mutual consent

A lease can be ended at any time by consent or mutual agreement. If the landlord agrees or gives consent, make sure you get it in writing.

Once the landlord gives consent, they cannot take it back. If you reach an agreement, ensure it states clearly that the landlord cannot chase you for any lease-breaking expenses or rent. Make sure you keep a copy.

Transfer your lease

The law allows you to transfer, or 'assign', your lease, or your part of it, to someone else.

You must first get either the landlord's written consent or an order from VCAT.

You can advertise the property yourself. However, you still need the landlord's written consent before you can go ahead with the transfer. If there are other renters, you will likely need their consent too.

You will also need to update the lease and arrange for the transfer of the bond.

The landlord can charge you for reasonable costs they incurred because of the transfer. They cannot charge you for giving their consent.

Experiencing family violence

If you need to move out because someone else on the lease is subjecting you to violence, you can apply to VCAT for an order to end the lease.

Do not hand in your keys or break your lease before VCAT hears your application. If you do, you may have to defend a lease-breaking claim. VCAT can also consider allocating costs to the person using violence if they are on the lease.

You are still responsible for the rent while you wait for the hearing, but VCAT must hear your application within 3 business days of you making it, or the next closest hearing day.

Do not pay any lease-break costs claimed by the landlord before the VCAT hearing. If VCAT makes an order that your lease can end early, you are not liable for these costs.

To make an order VCAT will need to be satisfied of matters including these:

- If the lease is not ended you, or your children, would likely suffer severe hardship because a family member on the lease is violent
- Your hardship would be more than any hardship experienced by the landlord

You do not need an intervention order to apply to VCAT to end your lease if you are experiencing family violence. However, it's a good idea to seek legal advice about whether getting one is the right decision for your situation.

You do need an intervention order if you are experiencing personal violence, which is violence committed by someone who is not a family member.

If you want to continue to live at the property and exclude the person who is violent you can apply to VCAT for an order that the lease is ended, and a new one is created without the name of the person subjecting you to violence.

If the person using violence is not on the lease but you still need to move to protect your safety, or your children's, you can apply to VCAT to end the lease on hardship grounds.

For more detailed information see the [family violence](#) page of our website.

Property is being sold

You can also give a reduced notice period of 14 days during a fixed-term or periodic lease if you were given a 'notice of intention to sell' and you were not told of the sale plans before you signed the lease. You are not liable for any lease-break costs.

Hardship

If you would suffer severe hardship by staying in the property due to an unforeseen change in your circumstances you can apply to VCAT to end your lease or change it to a periodic one.

Apply as early as possible because there is no minimum time for VCAT to hear this application. You must still pay rent until the lease ends. Do not pay any lease-break costs or hand your keys

back before the hearing. Returning your keys will usually end the lease and VCAT will have to dismiss your hardship application.

At the VCAT hearing

Take evidence of your hardship and why you want to end the fixed term lease. VCAT commonly awards some compensation to the landlord, but it is often less than lease-breaking costs.

To make an order to end your lease, VCAT must be satisfied that:

- There has been an unforeseen change in circumstances, such as losing your job, or needing to leave to care for a sick relative
- The unforeseen change will cause you severe hardship
- The hardship you would likely suffer if your lease term was not changed would be greater than the hardship the landlord would suffer if the lease was to end early

In some cases, VCAT may order that you pay no compensation to the landlord. These may include cases of family violence or where the landlord unreasonably refused your request to transfer the lease to another renter.

Property unfit to live in – notice before moving in

You can give an immediate notice of intention to vacate before 'entering into possession' of the property in these circumstances:

- The property is not in good repair
- It is unfit for human habitation
- It is destroyed or unsafe
- It is not vacant
- It does not meet a rental minimum standard

'Entering into possession' means you have not started sleeping at the property, even if you moved belongings there.

Take photos and videos and keep emails and phone logs of your calls to the landlord or agent.

If the landlord applies to VCAT to claim lease-break costs, do not pay anything before the

hearing, where you can present evidence to show why you terminated the lease.

Property unfit to live in after moving in

You may end your lease at any time without paying lease-break costs if the property becomes unsafe or unfit to live in after you have moved in.

Make sure you have substantial evidence that the property is unfit to live in, such as photos. 'Unfit for habitation' usually means an injury is expected from the ordinary use of the premises. If the landlord goes to VCAT and says that you broke the lease, VCAT will require you to prove that the property was unfit to live in at the time you gave the notice.

If VCAT decides the property was unfit you are entitled to any overpaid rent from the day after you returned the keys.

You need a different property – in some situations

You can end your lease, regardless of whether you are on a fixed term lease or periodic lease, in these circumstances:

- You need special care, and you need to move elsewhere to get it
- You have accepted an offer for public or community housing
- You need to move into temporary crisis accommodation
- You have a disability, and the landlord has refused to make reasonable modifications

The minimum notice period is 14 days. For the first 3 reasons, you must attach documentary evidence of your reason to your notice when you give it to the landlord. You should not be liable for any lease-break costs.

Landlord's breaches of duty

Landlords have certain 'duties' under the law. If a landlord has not complied with a duty, this is called a breach. If a landlord breaches a duty, you can give a 'notice of intention to vacate' the rental early in these circumstances:

- If the landlord has breached the same duty 3 times. However, you must have already given them 2 breach notices for that same duty, and when a third breach of the same provision occurs, you may give your notice of intention to vacate
- If the landlord has failed to comply with a compliance order made by VCAT

You first need to carefully follow these steps.

Establish that it is a breach

Breaches include if the landlord does not:

- Make sure the property is vacant and reasonably clean on the move-in date
- Allow you to have 'quiet enjoyment' of the property
- Keep the property in good repair
- Keep, and give you when requested, gas and electrical safety-check records
- Install locks that secure external doors and windows
- Give you a key when they change a lock

Give a notice of breach of duty

If the agent has breached a duty, you can give them a [Notice of breach of duty](#). The form for the notice is on the Consumer Affairs Victoria website. Make sure you have evidence because you may need to prove the breach at VCAT.

Allow 'required time' to fix the problem

For breaches of quiet enjoyment, the required time to fix the problem is 7 days, and 14 days for all other breaches.

If the problem has not been fixed within the required time you have 2 options. You can apply to VCAT for a compliance order or give a second breach notice.

Option 1 – apply to VCAT for a compliance order

A compliance order is a legal direction from VCAT telling a landlord (or renter) they must do something or stop doing something. If the

landlord does not follow the direction, the renter may give a notice of intention to vacate.

If you apply to VCAT for a compliance order, make sure the required time to fix the problem has passed. If VCAT makes a compliance order it will include a date by which the landlord needs to fix any problem.

If the landlord does not fix it or breaches the order, you can give a notice of intention to vacate to end your lease early.

The minimum required notice period is 14 days. If you followed all the steps properly, you cannot be required to pay any lease-break costs.

Option 2 – give a second breach notice

If the problem has still not been fixed within the 'required time' or there has been a subsequent breach of the same provision, you can give a second breach of duty notice.

If the second breach has not been fixed in the required time, or another breach of the same provision occurs, you can then give a 14-day notice of intention to vacate.

The notice of intention of to vacate must state the date you propose to vacate and set out the details of the third breach. It must be the same type of breach as described in the 2 previous breach notices. Attach copies of the 2 breach notices you have already given to the landlord, and any evidence of all 3 breaches.

If you followed all the steps properly, you cannot be required to pay any 'lease break' costs.

Useful links

Tenants Victoria:
www.tenantsvic.org.au

Consumer Affairs Victoria:
www.consumer.vic.gov.au

This information is a guide and should not be used as a substitute for professional legal advice.