

INNER MELBOURNE COMMUNITY LEGAL (IMCL)

We are a community legal centre based in North Melbourne and Kensington that provides free legal assistance to people experiencing marginalisation.

ENDING A TENANCY

RENTAL AGREEMENT



TYPES OF RENTAL AGREEMENTS

(Short) fixed term: 6–12 months or up to 5 years.

(Long) fixed term: More than 5 years.

Periodic: Month to month (can go into effect after a fixed term agreement has lapsed and no new agreement has been entered into).

OVERVIEW

A rental agreement/lease is used when a property (such as a house or apartment) is rented from someone else (the owner directly or through a real estate agent).

There are many reasons why you may want to end your lease and legally there are **different ways** that you can do this (and specific rules that you need to follow). These include:

- Sending a notice of intention to vacate,
- Applying to the Victorian Civil and Administrative Tribunal (VCAT)
- Coming to an agreement with your rental provider or
- Transferring your lease to someone else (assignment)

When you wish to end your lease, how you do so will depend **on the type of agreement that you are on. Some issues that may need to be considered are:**

- Whether there is a valid reason to do so (if you are in a fixed term agreement)
- How much notice needs to be given to the rental provider

Although you can still end a lease if the above are not complied with, you may incur 'lease breaking costs' that can be quite expensive

DIFFERENT WAYS TO END A LEASE

1. ISSUING A 'NOTICE OF INTENTION TO VACATE'

A notice to vacate is a formal, written document that states an intention to end the tenancy agreement. This can be issued by either the rental provider or the tenant.

For all 'notices of intention to vacate', it is important that the below are complied with/included:

- Be in writing
- Signed by the renter
- Minimum notice period
- The date you will be moving out and returning keys

There is an official form on the Consumer Affairs Victoria's website that has all the required information.

Whether you have a 'fixed term' or 'periodic' tenancy, **you will need to issue a notice of intention to vacate**.

Notice period:

- The notice period required depends on the **reason** why you are leaving

The minimum period where a fixed term agreement is not in place is usually 28 days

- In some situations a different notice period may apply (there is an exhaustive list on the Tenants Victoria and the Consumer Affairs website)
- If the property becomes unsafe to live in, there is **no minimum** notice period required

FIXED TERM TENANCY

For a fixed term tenancy, if you wish to leave before your agreement ends **without incurring costs**, there needs to be:

1. A valid reason **and**
2. Proper notice given to the rental provider

Some examples of a valid reason include:

- Your fixed term lease is about to end and you would like to leave (In Victoria, once your agreement has ended, it will automatically turn into a periodic tenancy).
- You have an unforeseen change in circumstances that will cause severe hardship, such as family violence (reduction in fixed term rental agreement will need to be ordered by VCAT).



For an exhaustive list of valid reasons and their notice period, please scan the QR code



PERIODIC TENANCY

For a period tenancy, although you may not need a 'valid reason':

1. A notice of 'intention to vacate' needs to be issued **and**
2. Proper notice needs to be given

Without the minimum notice period provided, you may incur 'lease breaking' costs.

2. APPLYING TO VCAT

You can apply to VCAT, (an accessible tribunal to resolve disputes without having to go to court and where binding decisions can be made) and request:

1. The term of your fixed lease to be reduced or
2. To end your lease early

Considerations made by VCAT:

- Whether something unexpected has occurred (ie loss of job) that would cause the renter severe hardship if they were to remain at the property
- Whether you are experiencing family or personal violence
- When determining whether there would be 'lease-break' costs, VCAT will consider the hardship you will experience and weigh that with the loss the rental provider may experience if the order were to be made.

We recommend that you seek legal advice before commencing VCAT proceedings.

3. GETTING CONSENT FROM THE RENTAL PROVIDER

If the rental provider provides consent, a lease can be ended **at any time without a valid reason and formal notice.**

We recommend that you get this agreement in writing and that it is signed by both you and the rental provider and that you keep a copy.

The written agreement should include:

- That you and the rental provider have **agreed** to end the lease early
- The **date** the lease will end and when you will be returning your keys
- There will be **no lease breaking costs** as a result of moving out early

4. TRANSFERRING YOUR LEASE TO SOMEONE ELSE

- If you have found someone to take over the remainder of your lease, you can ask to transfer your lease to that person
- You will need the rental provider's permission however, they can't unreasonably withhold consent
- This process is called 'assignment'

Note: there may be 'reasonable costs' that you may need to pay the rental provider, to prepare the new lease

LEASE BREAKING COSTS

Fixed Term Tenancy

- If you end your lease, either without a valid reason or without proper notice, you might be asked by the rental provider to pay 'reasonable costs'
- 'Lease-break' costs can be expensive as it is intended to compensate the rental provider for expenses they paid in renting the property to you

Periodic Tenancy

- If you end your periodic tenancy without giving proper notice, you might be asked to:
 - Pay the rent for the remainder of the notice period

We recommend you get legal advice before ending your lease.

SUPPORTS AVAILABLE

We recommend you get legal advice as soon as possible.

01

IMCL
(03) 9328 1885

02

TENANTS VICTORIA
(03) 9416 2577

STUDY MELBOURNE HUB

P: 1800 056 449

A: 17 Hardware Lane, Melbourne VIC 3000

Please note: this publication is not legal advice. If you would like legal advice, contact IMCL on (03) 9328 1885.



(03) 9328 1885

2/508 Queensberry Street, North Melbourne, VIC, 3051
22 Bellair Street, Kensington, VIC, 3031



www.imcl.org.au
www.ishelp.org.au



info@imcl.org.au