



CIVIL DIVISION
CIVIL CLAIMS LIST
OWNERS CORPORATIONS LIST
RESIDENTIAL TENANCIES LIST

TAKING IT TO VCAT

A guide to **Residential Tenancies**,
Civil Claims and **Owners Corporation**
disputes at VCAT

FAIR, EFFICIENT JUSTICE
FOR ALL VICTORIANS

VCAT | victorian civil &
administrative
tribunal



WELCOME

VCAT exists in order to provide the Victorian community with equal access to a just mechanism for resolving disputes. The provision of equal access to justice is the most important of the Tribunal's obligations to the community it serves.

We are in the process of implementing a three year strategic plan called *Transforming VCAT*. One of the initiatives set out in *Transforming VCAT* is to provide information to the community to explain what the Tribunal does.

Each year VCAT deals with over 70,000 cases in the areas of residential tenancies, civil claims and disputes involving owners corporations. These cases are at the heart of the Tribunal's work.

This booklet and the accompanying DVD have been developed to assist parties to make a claim and present their case before the Tribunal. They aim to explain the process and answer some common questions about 'Taking it to VCAT'. The DVD can also be viewed on VCAT's website www.vcat.vic.gov.au.

Of course no DVD or booklet can answer every question, so the booklet also provides important referral information about other useful sources of information.

I hope that by reading the booklet and watching the DVD you will gain a better understanding of the work performed by VCAT in serving our community.

Justice Iain Ross AO
President

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Section 1:

CAN VCAT DEAL WITH YOUR DISPUTE?

VCAT deals with many different kinds of disputes under different laws. VCAT is set up to resolve disputes efficiently and fairly in the way most appropriate for each case. This booklet is about cases in three of the 17 Lists at VCAT – the Residential Tenancies List, the Civil Claims List and the Owners Corporations List.

VCAT as a whole deals with a wide range of disputes including:

Civil disputes:

- Purchase and supply of goods and services (Civil Claims List)
- Residential tenancies disputes (Residential Tenancies List)
- Owners Corporations
- Domestic building works
- Consumer credit
- Legal practice matters
- Real property disputes
- Retail Tenancies disputes

Disputes between the community and government about:

- Planning and land valuation
- Licences to carry on businesses (including health professionals, travel agents, motor car traders and others)

- State taxation
- Many other government decisions (such as Transport Accident Commission decisions and Freedom of Information issues)

Human rights matters relating to:

- Guardianship and administration
- Discrimination
- Racial and religious vilification

The *VCAT Act 1998* and other Acts, Regulations and Rules that govern the work done at VCAT, are regularly updated and can be viewed from links at www.vcat.vic.gov.au

You will also find practice notes and directions on the website.

Some written decisions from VCAT hearings, including residential tenancies and civil claims, can be found at www.austlii.edu.au



CHECKLIST

- Make sure that you have a dispute that VCAT can deal with.
- Check the ***Resources and Help*** section if you are not sure.



Section 2:

SOME SPECIAL FEATURES OF THE RESIDENTIAL TENANCIES LIST

The *Residential Tenancies Act 1997* sets out the law about residential tenancies, rooming houses and caravan parks. Tenants, landlords, owners and residents need to be familiar with it.

Breaching provisions of the Act may result in tenants being forced to move and landlords and tenants facing financial loss. You need to know about your duties, responsibilities and rights under the Act.

Some examples of duties under the Act include:

Tenants and residents must:

- not use premises in a manner that causes a nuisance
- avoid damage to the premises
- not use premises for an illegal purpose

Tenants and residents have many other duties. See **Resources and Help** for how to find out more detail about your responsibilities and rights.

Landlords and owners must:

- give the tenant a written **statement of rights and duties** on the day the tenancy begins – there is one readily available from Consumer Affairs Victoria
- complete a condition report
- lodge the bond with the Residential Tenancies Bond Authority
- give receipts for rent
- take all reasonable steps to ensure the tenant has quiet enjoyment of the rented premises
- ensure the premises are maintained in good repair.

Landlords and owners have many other duties. See **Resources and Help** for how to find out more detail about your responsibilities and rights.



Notices to Vacate

There are many grounds under which a tenant can be given a notice to vacate the rented premises. Different periods of notice must be given depending on the reason. A tenant may be able to challenge the notice before the termination date given in the notice to vacate. Some notices

are based on fault, for example if a tenant is breaching the Act or failing to pay the rent. Some may not be about fault, for example if the premises are to be sold, the landlord wishes to move back in, or the lease is ending. See ***Resources and Help***.

>> AVOIDING RESIDENTIAL TENANCIES DISPUTES

Many disputes in the Residential Tenancies List are about rental payments and the condition of the rented premises. Many of these disputes can be avoided. It will help if the following basic steps are followed:

- > Provide and read the **statement of rights and duties**
- > Keep the **rental payment records**
- > **Complete the condition reports in detail** at the beginning of the tenancy, and have them signed and dated.

Section 3:

SOME SPECIAL FEATURES OF THE CIVIL CLAIMS LIST – FAIR TRADING DISPUTES

If you are in a dispute about the supply of goods or services, VCAT may be able to help you.

- You are encouraged to try to settle the dispute yourself. See the section ***Can the Dispute be Settled?*** for some tips about how to do this.
- You may be a consumer or a trader, a company, business or individual. If your dispute is about the purchase or supply of goods or services the Australian Consumer Law (Victoria) or the *Fair Trading Act 1999* will probably cover your dispute.
- If you have simply changed your mind about a purchase you will not have a claim.
- If you have a dispute about a used car it may be covered by the *Motor Car Traders Act 1986*.

>> CONSUMER AFFAIRS VICTORIA

You can obtain advice and information about your dispute from Consumer Affairs Victoria. Telephone enquiries officers at CAV can also advise you about whether your dispute can be dealt with at VCAT. The advice line number is **1300 55 81 81**.

Some examples of claims in the Civil Claims List

This list is just a small sample – there are many other possible claims.

- Debts
- Motor vehicle purchase, repairs, parts and service
- Building, renovations, household maintenance etc
- Purchase, repairs and service of electrical goods, furniture, white goods etc
- Furniture removal and storage
- Beauty services
- Gas, electricity, water, sewerage, telecommunications
- Pets and livestock
- Insurance claims
- Introduction agencies
- Goods purchased that are faulty or services that are unsatisfactory
- Misleading or deceptive conduct



Section 4:

SOME SPECIAL FEATURES ABOUT OWNERS CORPORATION DISPUTES

You may be a Member or manager of an Owners Corporation, and have a dispute about fees, or some aspect of the running of the Owners Corporation. The *Owners Corporations Act 2006* may apply.

Applications about title boundaries, for liability and lot entitlements may also be made under the *Subdivision Act 1998*.

Here are some types of Owners Corporation disputes that VCAT can deal with:

- Payment or non payment of fees
- Health, safety and security problems
- Metering of services and how much is paid for services
- Use of the common property
- Vehicles and parking on common property
- Damage to the common property or care of the common property
- Behaviour of other owners, occupiers or guests
- Noise and nuisance
- Behaviour of a manager or employee
- Financial management
- The keeping of records
- The maintenance plan for the owners corporation
- Repairs and maintenance including the outward appearance of the lots or common property
- People entering a lot for repairs or maintenance
- Insurance
- Decisions and procedures at meetings
- Making rules for an owners corporation
- Seeking exemption from some requirements of the Act or Regulations for a particular owners corporation
- Appointing a manager or other officer, if necessary



What should I do before applying to VCAT?

You should try to resolve the dispute before applying to VCAT. For some tips see the section: ***Can the Dispute be Settled?***

In an owners corporation matter you can:

- Follow the dispute resolution process in the rules of your owners corporation
- Complain to your owners corporation, which may decide to follow a process of internal dispute resolution
- Make a complaint to Consumer Affairs Victoria (See ***Resources and Help***)
- Lodge an application at VCAT

If you are the owners corporation wanting to apply about a breach of the Act or Regulations or Rules, you ***must*** first follow the dispute resolution procedure set out in your own rules or the Model Rules, unless the problem is fee recovery, for which you must follow special steps. See ***Resources and Help***.

Section 5:

CAN THE DISPUTE BE SETTLED?

Before you apply to VCAT you should try to settle your dispute with the other party. There are good reasons for this.

Every case before the Tribunal has a losing party – it may be you.

If you can reach a settlement yourself, you have control over the outcome. It is less stressful than a hearing at the Tribunal, and may save you time and money.

Some tips for settling disputes

- Be calm. This will help you.
- Think about what you want to say and make some notes first.
- Speak with the other party – listen carefully to what they have to say. Try to put yourself in their place and understand their position. You will often find that the distance between your positions is not as great as it may have initially appeared.
- Be genuine in your efforts – if you find it difficult to deal with another party, ask someone to help.
- Make a list of possible solutions to the dispute to discuss with the other side. Be realistic.
- If you feel you do not understand your rights and cannot reach a settlement, ask for help. There are some telephone numbers and websites of services at the end of this booklet.
- If ringing or visiting the other party, record what you discuss and any agreements you make. Make sure you speak to the person in charge.
- If writing to the other party, make sure your letter is clear and offers a solution. Keep a copy.
- Your offer to settle might not be accepted. Think about whether you want your settlement discussions to be “off the record” or capable of being disclosed to the Tribunal at a hearing. If you want the offer to be off the record, make your offer in writing and write that it is “without prejudice”.



SETTLING THE DISPUTE *CHECKLIST*

- Have you contacted the other party to try to settle the dispute?
- Do you have a copy of all discussions and agreements?
- Check ***Resources and Help*** for advice, if needed.

Section 6:

HOW DO I APPLY FOR A HEARING AT VCAT?

To make a claim or counter claim you need to complete an application form, available at www.vcat.vic.gov.au or by ringing **9628 9800** (Residential Tenancies) or **9628 9830** or **1800 133 055** (Civil Claims / Owners Corporation).

In Residential Tenancies, many real estate agents now are registered users of VCAT Online (go to www.vcat.vic.gov.au) to create an application online.

Finding the correct details for the other party

- You must name all parties correctly. If the other party is a company or business you must find out the correct details.
- If the other party is a **company** you must attach to your application form evidence of the Australian Company Number (ACN), the company's registered office, and the place it carries on business. The company's letterhead or an invoice might contain this information. If not, you can obtain a company extract at the ASIC website

www.asic.gov.au or by going to one of its offices. The addresses are in the **Resources and Help** section.

- If the other party is a **registered business**, letterheads or invoices may show the right address, but the best method is to obtain a computer extract that lists the business address and owners. You can obtain the extract in person, by mail or by fax or on the website of Consumer Affairs Victoria www.consumer.vic.gov.au

There is a small fee for the extract.

- The address and phone number are in the **Resources and Help** section.

Filling out the form

- You will need to provide details about the claim you are making. You can attach extra pages. If you need help to clarify what law applies to your situation, go to the **Resources and Help** section. Write a summary of what has happened, as clearly as you can, in order and with headings. Attach copies of invoices, letters, diary notes, details and statements of witnesses. Keep copies. In residential tenancies matters, include the condition report, lease, bond receipt and rent records if relevant.
- State how much you are claiming, and what orders you are asking VCAT to make. The forms give you lists of options: in civil claims – payment of money, order to comply with a contract etc; in residential tenancies – compensation, compliance order, order for possession etc. Make sure you include all the possibilities you have considered.
- You may be asked if your claim is being dealt with by any other Court. If it is you may be able to ask the other Court to transfer your case to VCAT. You will need to act quickly. Check **Resources and Help** for assistance.
- Make sure that you sign and date the application form.
- File your completed application with any supporting documents at VCAT. You may do this by post, using VCAT online or by personally attending VCAT.



Section 6 (continued):



In Residential Tenancies you must serve your application

- In a residential tenancies matter you have to provide a copy of your application and supporting documents to the other party. A notice to vacate **must** be sent by registered post or by personal service. There are special requirements for personal service, which does **not** mean leaving the form in the letterbox or under the door. For further information on service see the practice note called Residential Tenancies List Information for parties – Giving documents by hand or registered post, available at www.vcat.vic.gov.au or from VCAT.

- If you are the landlord or agent and you have or can find a forwarding address for the tenant you **must** let VCAT know so that the notice of hearing can be properly served.

Is there a fee for applying?

- In Residential Tenancies, Civil Claims and Owners Corporation matters, for a claim of less than \$10,000 there is a small fee. If the Civil Claim is more than \$10,000 the cost is higher. Check the website www.vcat.vic.gov.au for information about the current fees. The fee can be waived where there is financial hardship. There is a form for this on the VCAT website.



APPLICANT'S CHECKLIST

- Have you named all the parties correctly?
- If the other party is a company, do you have a company extract or letterhead attached to your application?
- In Civil Claims if the other party is a registered business, do you have a business extract or the business letterhead attached to your application?
- Is the form completed, signed and dated?
- Do you have copies of everything?
- Have you paid the fee or applied for a waiver?
- In Residential Tenancies – have you served the application and documents?
- In Civil Claims, have you attached copies of all documents to your application?

Section 7:

WHAT CAN I DO IF AN APPLICATION HAS BEEN MADE AGAINST ME?

If you receive an application for a hearing at VCAT you will need to take some action without delay.

- When you receive a copy of the application, you will need to think about whether you agree with the claim in full or in part, or totally disagree with it.
- Think about contacting the applicant to explain your position and attempt to resolve the dispute. See the section ***Can the dispute be settled?***
- If you want VCAT to hear and decide the matter, ask yourself what outcome you expect.
- Do you need to seek advice? Make this decision quickly. See ***Resources and Help***.
- Prepare all documents and witnesses you will need to rely on. See the section ***What do I need to prepare and take to the hearing?***
- If you want to defend the application, but you do not have a claim against the other person, go to the hearing with all your documents and other evidence and tell your side of the story.
- If you believe you have a claim against the other person, you can lodge your own claim with VCAT. This is called a counter claim. You need to follow all the steps set out in the Section ***How do I apply for a hearing at VCAT?***
- Make sure that you write the reference number of the applicant's claim on your form, so that both claims are heard together.



RESPONDENT'S *CHECKLIST*

- Have you contacted the other side to talk about settlement of the dispute?
- Seek advice if needed.
- Make a counter claim if required.
- Keep copies of all letters, invoices, documents, condition report, lease, record of conversations etc.

Section 8:

BEFORE THE HEARING

There are many questions people ask about what will happen before the hearing date. Here are some answers.

Your reference number

After your application has been filed you will be given a file reference number. Any correspondence from VCAT will have the file reference number on it. You will need to quote this number whenever you ring or write to VCAT about your case.

Can I change the date of my hearing?

Changes to hearing dates (called adjournments) are generally not granted unless all parties agree in writing. This written consent must be sent to VCAT before the hearing. You can apply to VCAT for an adjournment even if the other party does not agree, but you will need to have a good reason. A request for an adjournment should be made in writing, early. You will need to attach evidence,

such as an airline ticket or medical appointment card. If a request for an adjournment is refused, the hearing will go ahead.

In the Residential Tenancies List, landlords and real estate agents sometimes request adjournments for three months. Commonly this is when the application is for a possession order because of rent arrears and the rent has been paid or an agreement has been made between the landlord and tenant about a payment plan. The application stays in the VCAT system and the landlord can request that a hearing date be set if there is a further problem with the rent. Otherwise, the application is withdrawn at the end of the three months.



What if I want to change my application?

If you want to change your application, for example to add more information or change the amount you are claiming, you will need to write to VCAT and quote the reference number you will have been given. Send any documents that support why you need to make the change, for example extra invoices or quotes. If you are increasing the amount of your claim, check that the fee you have paid is still the correct fee.

Can I ask for an interpreter?

If you are an applicant or a respondent and you will need an interpreter for the hearing, tell VCAT, in writing, as soon as possible, stating the language and dialect needed. VCAT will arrange this. There will be no cost.

Other support or assistance

If you need particular support, perhaps due to a disability, let VCAT know as soon as possible. Accessible hearing rooms and toilets are available, and additional support will be arranged as required. If you think you will need security, tell VCAT and explain what you need and why.

Telephone and video hearings

You can ask VCAT to consider this option if you think this is the only way you can be present. It is possible, though uncommon, for hearings to take place with one or more parties present by telephone or video conference.

Section 8 (continued):

Lawyers and advocates

In Civil Claims where the claim is less than \$10,000 people usually represent themselves, and lawyers usually are not allowed to appear on behalf of parties. In Residential Tenancies matters landlords are often represented by professional advocates (real estate agents). Tenants can be represented by an advocate if the landlord is seeking a possession order, or the landlord is represented by a professional advocate, or if the Member allows.

Settling the dispute

Don't be surprised if the other party rings you up. It is a good idea to discuss possible settlement of the matter if you can. An applicant can withdraw their application at any time by writing to VCAT.



BEFORE THE HEARING *CHECKLIST*

- Do you need to request that the hearing date be changed? Do so early and in writing.
- Do you need any assistance at the hearing – interpreters, hearing loop facilities, use of a telephone, security? Do so early and in writing.

Section 9:

WHAT DO I NEED TO PREPARE FOR AND TAKE TO THE HEARING?

It is important for you to be prepared for the hearing and have all your documents ready.

- Make sure you have everything ready for the hearing day. It will not be helpful for you to say that you have evidence at home, or can get it later, because usually the hearing will be completed on the day, and a decision will be given straight away. Once the hearing is over, you will not be able to reopen the case or give evidence you had forgotten to bring.
- Know what you want to achieve and how you will prove it. Consider the position of the other side. It is a good idea to write down a list of the strengths and weaknesses in the case of the other side, as well as your own case.
- Remember to gather all the material you will need to answer any questions or challenges.
- Be clear about your own evidence. It must be truthful and accurate. You will probably be asked questions about it. Make sure you know what you want to say.
- If you have witnesses, it is best if they can come to give evidence in person. If they can't, they may provide written evidence in an affidavit or statutory declaration. These statements must also be truthful, accurate and clear. Statements by witnesses will not carry as much weight as evidence given in person, because the other side will not be able to ask questions.
- You have the right to ask questions of witnesses called by the other side. Prepare a list of questions you might want to ask.

Section 9 (continued):

Prepare, copy and have ready to bring documents and items such as:

- for Residential Tenancies matters, the condition report, the lease, bond receipt, photographs and invoices
- reports from experts
- contracts, business and financial records
- letters, invoices, quotes, photographs
- notes of conversations or meetings
- any product that is part of the dispute, if it is a manageable size.

It will be helpful if you have copies of documents to provide to the VCAT Member and the other party at the hearing. Both sides have a right to a fair hearing, so the Member will want you to show all your evidence to the other party and it's easier to do that if you have spare copies.

You will probably want to note a few things during the hearing, so that you remember to mention them when it is your turn, so bring a pen and paper.



WHAT TO BRING TO THE HEARING *CHECKLIST*

- Remember – you are your best witness – your first hand knowledge given on oath or affirmation will usually be your best evidence.
- Prepare what you want to say.
- Obtain statements from other witnesses, if any.
- Prepare and copy all evidence.
- Bring a pen and paper to take notes.

Section 10:

ALTERNATIVE DISPUTE RESOLUTION AT VCAT

VCAT recognises that settlement of disputes is generally a good outcome for parties, and supports that process.

- People who are able to reach a resolution of their dispute often feel more satisfied and more in control of their situation.
- This is particularly important when parties have an on going relationship, such as a landlord and tenant, or neighbours in an Owners Corporation.
- Before any hearing, parties will usually be given an opportunity to talk with the other party to see if it is possible to reach an agreement. Any agreement can then be formalised by VCAT in what are called Consent Orders.
- In some situations a formal mediation will take place before a hearing is listed. This happens in many Owners Corporation matters.
- In some cases (such as Civil Claims where the amount claimed is more than \$10,000) a Compulsory Conference takes place before a hearing is listed.

>> WHAT IS A MEDIATION?

A mediation is a process in which the parties to a dispute, with the assistance of a mediator, identify the disputed issues, develop options, consider alternatives, and try to reach an agreement. The mediator does not decide or direct what agreement may be reached. It is for the parties to come to the agreement, if possible, and for the mediator to facilitate the process. Discussions in the mediation are confidential.

Section 10 (continued):



What is a compulsory conference?

A compulsory conference is like a mediation, except that the neutral third person (the mediator or Tribunal Member) may offer some advice about possible agreements or settlements, but cannot impose an agreement. It is still up to the parties to decide whether they wish to settle.

What actually happens?

In a mediation or compulsory conference, both parties meet with the neutral third person together. Each explains their perspective on the dispute and clarifies the issues in dispute. The mediator encourages parties to talk to each other. The mediator may meet with each party separately to focus on possible solutions. See the DVD on www.vcat.vic.gov.au to find out more about mediations.

Section 11:

WHAT ELSE DO I NEED TO KNOW ABOUT THE HEARING DAY?

You can watch the tour of VCAT on the DVD which accompanies this booklet. It will help you understand what to expect when you come to VCAT.

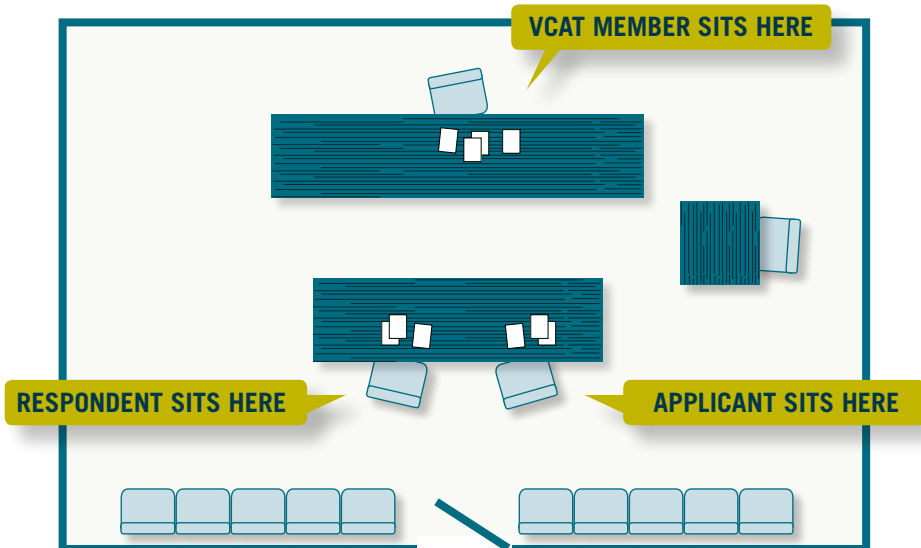
- Many VCAT hearings take place at 55 King Street, which is in King Street between Collins Street and Flinders Lane. It is readily accessible by public transport via the Collins Street or Flinders Street tram routes or the nearby Southern Cross station. Parking is very limited.
- VCAT hearings, including many in the Residential Tenancies List, also take place in Magistrates Courts in the suburbs of Melbourne and in country towns.
- Dress neatly – you do not need formal clothes.
- Arrive early – at least 15 minutes before your hearing starts but preferably earlier. This is your opportunity to speak with the other side or even to watch other cases before yours is called to gain a feeling for how the case will proceed. Tell the counter staff you have arrived. At 55 King Street, the counter staff you need to speak to are on the 5th floor.



Section 11 (continued):

- It may be a bit uncomfortable or confronting sitting near the other party, but it can be a good opportunity to talk and settle the matter yourselves. If you are worried or feel threatened, tell the counter staff.
- Switch off your mobile phone.
- When your case is called move into the hearing room and make sure you are ready to present your case.
- Stand (unless it is difficult for you to do so) when the VCAT Member enters the room and remain standing until invited by the Member to sit.
- In the Civil Claims, Residential Tenancies and Owners Corporations Lists the parties remain seated during the hearing except when they are taking the oath to tell the truth. The oath is explained on the next page.
- The usual way to address the VCAT Member is as "Sir" or "Madam" or as Mr or Ms and the Member's surname.
- If you are waiting in the hearing room to watch other cases, do not chat with others while hearings are taking place.

The Hearing Room



Section 12:

WHAT WILL HAPPEN AT THE HEARING?

You will see some hearings on the DVD which accompanies this booklet.

- The Tribunal Member will come in – everyone stands (unless it is difficult to do so) until asked to sit.
- The Member will sit at the front of the hearing room facing the parties. The long table is where the parties sit facing the Member. Other people may sit at the back of the room.
- Each party and any witnesses are asked to make an oath or affirmation. This is a formal promise to tell the truth in the hearing. The Member will help with the wording. The wording is also written on a card which is with the Bible on the table. You can make your oath using the holy book of your religion. If you don't want to use the Bible or other holy book, you can make an affirmation.
- Members have a responsibility to ensure that all parties receive a fair hearing and that parties are treated with courtesy and respect. As a party you must treat the Tribunal Member and the other party with courtesy and respect at all times. These matters are dealt with in more detail in Practice Note PNVCAT3: Fair Hearing Obligation, which is available on our website (www.vcat.vic.gov.au).
- Each person will be given an opportunity to speak without interruption. The applicant will usually be asked to speak first, and will need to give an outline of their case. Witnesses may be called, and any photos or other evidence presented. The Member will probably ask questions. The respondent may be asked questions along the way as issues are raised.

Section 12 (continued):

- It will then be the respondent's turn to present their case, and to also call witnesses and present evidence. Again, the Member will probably ask questions, as may the applicant.
- In every hearing, both sides have a right to a fair hearing and it is the Member's job to make sure that happens. The Member will explain what to do as the case goes along. If you are not sure what to do, or do not know what is going on, ask the Member. You can read about the Fair Hearing Obligation on the website: **www.vcat.vic.gov.au**
- Have a pen and paper handy to keep notes until it is your turn to speak.
- Remember that you have the right to ask questions of witnesses called by the other side. Prepare a list of questions you might want to ask. If a witness says something you do not agree with, you should say that you do not agree, and put your version of events to the witness.
- The applicant must prove their case on the balance of probabilities. This means that the Tribunal must accept that the case brought by the applicant is more likely than not to be correct. So the aim is to persuade the Member that the evidence and case being presented by you should be more readily accepted than the evidence being given by the other side.
- Sometimes the Member will not be prepared to listen to every single thing you want to say. It may be that you have already proven the point, or that the point you are making is not relevant or is repetitive.
- Once all the evidence has been heard the Member will make a decision. She or he may take a short break before doing so. Sometimes, though not often, the Member may say that the decision will be made later and written reasons will be given.
- Once the Member has given the decision the time for making submissions and trying to change the outcome has passed.

Section 13:

WHAT HAPPENS AFTER THE HEARING?

All VCAT orders are enforceable and must be complied with.

How is the order enforced?

- If VCAT makes an order requiring a party to pay money, usually that will be all that is needed for the money to be paid. If the money is not paid, the order can be enforced. Some further steps need to be taken.
- You will need a certified copy of the order. You can ask VCAT to provide you with a certified copy of the order. If you ask in the hearing, the Member may include an order that you be provided with a certified copy.
- You will then need to file the order, with an affidavit, with the appropriate court. For orders requiring payment of less than \$100,000.00, the appropriate court is the Magistrates Court. You can go to the Magistrates Court closest to you. You must swear the affidavit in front of a person who is authorised for that purpose, and in the affidavit you must state that you are the person to whom the money is to be paid, and also how much money is to be paid.
- The Magistrates Court can then make certain orders to enforce payment including, for example, instalment orders and warrants to seize property. You can find out more about enforcement from the Magistrates Court or www.vcat.vic.gov.au if you need to.

Section 13 (continued):

What happens if I miss the hearing?

If you are not at the hearing, orders may be made in your absence. If you had a reasonable excuse for not attending or being represented, you can apply for a review. There is a form for this on the VCAT website, or contact VCAT for a copy. You have 14 days from when you find out about the order to apply for a review. In exceptional circumstances this time limit can be extended.

What if there is a mistake in the order, such as a misspelt name or similar?

A VCAT order can be corrected if it has a clerical or similar error. Contact VCAT if this has happened. The decision itself cannot be changed.

What if I want to appeal the decision?

In limited circumstances (where there has been an error of law only) a party may seek leave to appeal to the Supreme Court of Victoria. If you want to appeal you will need to seek legal advice immediately after VCAT has made the order. Time limits apply.



Section 14:

RESOURCES AND HELP

The Law

The legislation you may need to find out about includes the *VCAT Act 1998*, *Residential Tenancies Act 1997*, *Fair Trading Act 1999*, the *Competition and Consumer Act 2010*, *Owners Corporations Act 2006* as well as Regulations and Rules.

The Acts, Regulations and Rules are updated regularly and can be viewed from links found at www.vcat.vic.gov.au

You will also find practice notes and directions on the website.

Some written decisions from VCAT hearings, including residential tenancies and civil claims, can be found at www.austlii.edu.au

A commentary on the law about residential tenancies has been written by VCAT Members. This is called the ANSTAT annotated *Residential Tenancies Act 1997*, and is available from Information Victoria, 505 Lt Collins Street Melb, **1300 366 356**.

Law Institute of Victoria (LIV)

The LIV provides a referral service to solicitors who can provide a free 30 minute enquiry interview. To contact the Legal Referral Service phone **9607 9550** or visit the LIV website at www.liv.asn.au.

Consumer Affairs Victoria (CAV)

CAV provides advice and assistance to all parties in Residential Tenancies, Civil Claims and Owners Corporation matters. They have a walk-in and telephone service.

Street address:

Victorian Consumer and Business Centre
113 Exhibition St
Melbourne 3000

Postal address:

GPO Box 123
Melbourne 3000

Phone: 1300 55 81 81 (toll free)
www.consumer.vic.gov.au

For a detailed listing of regional CAV offices and mobile services visit the CAV website or ring **1300 55 81 81**.

Victoria Legal Aid

VLA has a duty lawyer service at VCAT (King St). They have an office on the ground floor. Ask counter staff for directions.

They also have a telephone advice service: **9269 0120** or **1800 677 402** (toll free outside the metropolitan area).

Resources and Help (continued):

Community Legal Centres

CLCs provide advice and referral, and many handle cases and assist with all kinds of legal matters. Services are free. There will be a community legal centre in your area. For information contact:

The Federation of Community Legal Centres

Suite 11, 1st Floor, 54 Victoria St
Carlton South 3053
Phone: 9652 1500
www.communitylaw.org.au

Consumer Action Law Centre Victoria

Level 7, 459 Little Collins St
Melbourne 3000
Phone: 9629 6300 or 1300 881 020

Tenants Union of Victoria is a specialist community legal centre available to all tenants.

55 Johnston St
Fitzroy 3065
Phone: 9416 2577

Pensinsula Community Legal Centre

also offers specialist assistance to users of VCAT in the Residential Tenancies and Civil Claims Lists, including self-advocacy training.

Suites 1-4, 431 Nepean Hwy
Frankston 3199
Phone: 9783 3600

Public Interest Law Clearing House

Level 1, 550 Lonsdale St
Melbourne 3000
Phone: 9225 6680
www.pilch.org.au

Victorian Aboriginal Legal Service Co-op Ltd

Head Office:
6 Alexandra Pde
Fitzroy 3065
Phone: 9419 3888 or 1800 064 865
www.vals.org.au

Youthlaw

19 King St
Melbourne 3000
Phone: 9611 2412
www.youthlaw.asn.au

See also *The Law Handbook* published by Fitzroy Legal Service available free at:
www.lawhandbook.org.au

Other useful organisations and agencies

Real Estate Institute of Victoria

335 Camberwell Rd
Camberwell 3124
Phone: 9205 6666
www.reiv.com.au

Office of the Small Business Commissioner

Level 2, 121 Exhibition St
Melbourne 3000
Phone: 9651 9967 or 13 22 15

Dispute Settlement Centre of Victoria

Phone: 9603 8370 or 1800 658 528
www.justice.vic.gov.au/disputeinfo

Residential Tenancies Bond Authority

Street address:

Victorian Consumer and Business Centre
113 Exhibition St
Melbourne 3000

Postal address:

Locked Bag No 007
Wendouree 3355
Phone: 1300 137 164

To find the correct details for a company:

Australian Securities and Investments Commission ASIC

Level 24, 120 Collins St
Melbourne 3000
Phone: 1300 300 630
www.asic.gov.au
See the website for regional addresses

To find the correct details for a registered business:

Consumer Affairs Victoria

113 Exhibition St
Melbourne 3000
Phone: 1300 55 81 81
www.consumer.vic.gov.au

CHECKLIST SUMMARY

All of the checklists in one spot for easy reference.

CAN VCAT DEAL WITH YOUR DISPUTE?

- Make sure that you have a dispute that VCAT can deal with.
- Check the ***Resources and Help*** section if you are not sure.

SETTLING THE DISPUTE

- Have you contacted the other party to try to settle the dispute?
- Do you have a copy of all discussions and agreements?
- Check ***Resources and Help*** for advice, if needed.

APPLICANT'S CHECKLIST

- Have you named all the parties correctly?
- If the other party is a company, do you have a company extract or letterhead attached to your application?

- In Civil Claims if the other party is a registered business, do you have a business extract or the business letterhead attached to your application?
- Is the form completed, signed and dated?
- Do you have copies of everything?
- Have you paid the fee or applied for a waiver?
- In Residential Tenancies – have you served the application and documents?
- In Civil Claims, have you attached copies of all documents to your application?

RESPONDENT'S CHECKLIST

- Have you contacted the other side to talk about settlement of the dispute?
- Seek advice if needed.
- Make a counter claim if required.
- Keep copies of all letters, invoices, documents, condition report, lease, record of conversations etc.

Section 15 (continued):

BEFORE THE HEARING

- Do you need to request that the hearing date be changed?
Do so early and in writing.
- Do you need any assistance at the hearing – interpreters, hearing loop facilities, use of a telephone, security? Do so early and in writing.

WHAT TO BRING TO THE HEARING

- Remember – you are your best witness – your first hand knowledge given on oath or affirmation will usually be your best evidence.
- Prepare what you want to say.
- Obtain statements from other witnesses, if any.
- Prepare and copy all evidence.
- Bring a pen and paper to take notes.

Telephone Interpreter Service

If you have difficulty understanding English, contact the Translating and Interpreting Service (TIS) on 131 450 (for the cost of a local call) and ask to be put through to an Information Officer at Consumer Affairs Victoria on 1300 55 81 81.

Arabic

إذا كان لديك صعوبة في فهم اللغة الإنكليزية، اتصل بخدمة الترجمة التحريرية والشفوية (TIS) على الرقم 131 450 (تكلفة مكالمة محلية) واطلب أن يوصلوك بموظف معلومات في دائرة شؤون المستهلك في مكتبنا على الرقم 1300 55 81 81.

Turkish İngilizce anlamakta güçlük çekiyorsanız, 131 450'den (şehir içi konuşma ücretine) Yazılı ve Sözlü Tercümanlık Servisini (TIS) arayarak 1300 55 81 81 numaralı telefondan Victoria Tüketici İşlerini acentalarını ve sizi bir Danışma Memuru ile görüştirmelerini isteyiniz.

Vietnamese Nếu quý vị không hiểu tiếng Anh, xin liên lạc với Dịch Vụ Thông Phiên Dịch (TIS) qua số 131 450 (vô giá biểu của nó gọi địa phương) và yêu cầu được nối đường dây tới một Nhân Viên Thông Tin tại Bộ Tiêu Thụ Sự Vụ Victoria (Consumer Affairs Victoria) qua số 1300 55 81 81.

Somali Haddii aad dhacato ku qabto fahimda Ingiriiska, La xiriir Adeega Tarjuma iyo Afcelinta (TIS) telefoonka 131 450 (qiimaha meesha aad joogto) wacyaalsuna in lagugu xiro Sarkaa ka Macluumaadka ee Arraha Macluulaha Fiktooriya tel. 1300 55 81 81.

Chinese 如果您听不懂英語，請電 131 450 查詢有關翻譯服務。電話：131 450 (本地免費，但會產生電費)。當您需要協助並轉接至消費者事務部 (Consumer Affairs Victoria) 的傳真官員。電話：1300 55 81 81。

Serbian Ako vam je teško da razumete engleski, nazovite Službu prevodilača i tumača (Translating and Interpreting Service - TIS) na 131 450 (po cenu lokalnog poziva) i zamolite ih da vas povežu sa Službenikom za informacije (Information Officer) u Viktorijskoj Službi za potrošačka pitanja (Consumer Affairs Victoria) na 1300 55 81 81.

Amarhic ከተገባህ ግንዛቤ ለማግኘት የግብርና ጉዳዮች ለግብርና ልዩ ግብርና (TIS) ስልክ ቁጥር 131 450 (አካባቢ ግንዛቤ) ለማግኘት ይጠይቁ። ደጋግተኛ ጉዳዮች ስለሆኑ የግብርና 1300 55 81 81 ደውሎ ስምዎን አድርጎ ሠጥኖ ስር አገልግሎት ለማግኘት።

Dari

اگر شما مشکل دانستن زبان انگلیسی دارید، با داور خدمات ترجمانی تحریری و شفاهی (TIS) به شماره 131 450 به قیمت مذاکره محلی تماس بگیرید. وبسایت ما که شماره 1300 55 81 81 است را به کارمند ما در امور مراجعه و بیکورین به شماره 1300 55 81 81 ارتباط پیدا کنید.

Croatian Ako ne razumijete dovoljno engleski, nazovite Službu tumača i prevoditelja (TIS) na 131 450 (po ceni in. mesnog poziva) i zamolite da vas spoje s djelatnikom za obavijest u Consumer Affairs Victoria na 1300 55 81 81.

Greek Αν έχετε δυσκολίες στην κατανόηση της αγγλικής γλώσσας, επικοινωνήστε με την Υπηρεσία Μετάφρασης και Διερμηνείας (TIS) στο 131 450 (με το κόστος μιας τοπικής κλήσης) και ζητήστε να σας συνδέσουν με έναν Υπάλληλο Πληροφοριών στην Υπηρεσία Προστασίας Καταναλωτών Βικτωρίας (Consumer Affairs Victoria) στον αριθμό 1300 55 81 81.

Italian Se avete difficoltà a comprendere l'inglese, contattate il servizio interpreti e traduttori, cioè il "Translating and Interpreting Service" (TIS) al 131 450 (per il costo di una chiamata locale), e chiedete di essere messi in comunicazione con un operatore addetto alle informazioni del dipartimento "Consumer Affairs Victoria" al numero 1300 55 81 81.

MAIN OFFICE

Victorian Civil and Administrative Tribunal (VCAT)

55 King Street, Melbourne VIC 3000

Email: vcat@vcat.vic.gov.au

Website: www.vcat.vic.gov.au

Civil Claims List

Phone: 03 9628 9830

Fax: 03 9628 9988

Toll free: 1800 133 055

(Rural or regional Victoria)

Owners Corporations List

Phone: 03 9628 9830

Fax: 03 9628 9967

Toll free: 1800 133 055

(Rural or regional Victoria)

Residential Tenancies List

Phone: 03 9628 9800

Fax: 03 9628 9822

Toll free: 1800 133 055

(Rural or regional Victoria)

VCAT | victorian civil & administrative tribunal

Fair, efficient justice for all Victorians