

Dispute resolution

Gina Tobolov explains the Victorian Civil and Administrative Tribunal (VCAT)

Landlords and tenants don't always see eye-to-eye and end up at VCAT to resolve their disputes. But what exactly is VCAT and how does it assist in problem resolution?

The role of VCAT

Parties attend VCAT for various reasons but in the property management industry we use it to generally settle tenancy disputes and rent arrears.

VCAT is available for real estate agencies, private landlords and tenants to access.

Most tenancy disputes arise at the end of the tenancy when the property manager or private landlord can resolve a claim on the bond or compensation over the bond amount. A good property manager will usually be able to resolve a claim on the bond without attending VCAT, but there are occasions when a resolution cannot be reached. Rent arrears can arise throughout the term of the tenancy.

How do you get to VCAT?

One does not 'just rock up to VCAT'. An application must be made and sent to each of the parties. Generally, the agent will make the application outlining the relevant section/s of the Residential Tenancies Act and documents attached to support the claim.

VCAT is an inexpensive way of resolving a dispute within the court system. The fee for an application may not be applicable if the claim is less than the total bond. If the claim is higher than the bond, the

application fee is approximately \$62.

The application must be served on all relevant parties and is best served via registered post so you have proof of delivery. Many agents will also serve the application and attached documents via email and ordinary mail.

VCAT will give you a hearing date and time and each of the parties will be required to attend with their supporting evidence.

Before the hearing commences, each party to the application is required to swear in or make an affirmation that the evidence that they present will be the truth.



What evidence is required for VCAT?

Evidence is proof required to support your claim. If an agent is claiming rent arrears, then a ledger payment history must be presented, therefore it is vital to keep excellent records. Real estate agencies are required to run a trust account, ensuring that all funds received are reconciled. Private landlords need to have a system where they account for all rent received and rent paid to dates.

If the dispute is over damage or cleaning of the property, then evidence to be presented should include before-and-after

photographs of the property showing any damage.

Your claim should also be supported with invoices for the rectification of any damage or cleaning costs.

Keep in mind that the law allows for fair wear and tear and depreciation on a property. A good property manager will be able to tell reasonably fair wear and tear as opposed to damage.

Evidence may also be a report from a professional tradesperson corroborating the extent of the damage.

Witnesses may also attend the hearing to give firsthand evidence to support a claim.

Each party to the claim is required to have a copy of evidence.

How is the decision made at VCAT?

The Member hearing your dispute will ask each of the attending parties for their side and a copy of the evidence. Once the Member is satisfied that all evidence has been presented, a decision will be read out and an Order made and given to each of the parties.

The VCAT Order is binding and will outline how the dispute is to be finalised. The Order is final but there are occasions where a party can request an appeal.

It is important to remember that VCAT should be your last resort to resolving a dispute. All avenues of a resolution should be attempted before making that final decision. VCAT will not always make an Order that you will be satisfied with.

A good property manager should be able to resolve most disputes without the need to make an application to VCAT.



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