

Summary of CAV Information as of 24/04/2020



Introduction

New laws have been passed to protect tenants from eviction and allows tenants to negotiate a rent reduction with their Landlord if they are suffering financial hardship due to COVID-19.

The new laws are in place for 6 months from 29th March and means tenants can't be evicted if they are served a NTV for rent arrears due to COVID-19. If a Landlord has served a NTV on or after the 29th March 2020 to a tenant who can't pay rent because of financial hardship resulting from COVID-19, it is not effective.

The process for working through the rent relief process is:

1. Tenants are to work out how much rent they can afford to pay and prepare the info to help negotiate with the Landlord.
 - Work out what income they have from their employer and through any government financial support, and also how long this income will last
 - Find out if they are eligible for the Vic Government rent relief grant (one off payment of \$2000 paid direct to Landlord, <https://www.housing.vic.gov.au/help-renting/rentrelief>)
 - Consider any savings they might have
 - Determine what essential expenses they will be incurring – for example: food, clothing, medical, utilities, phone, internet, education and vehicle expenses
 - Work out the rent they can afford to pay with their reduced income. As a guide, paying more than 30% of gross income in these circumstances would be considered rental hardship.

There is no pre-determined rate or amount that a tenant could be expected to pay, a reduced rate needs to be reasonable in the tenants and landlords circumstances.

- For some tenants a lesser reduction may be enough to enable them to keep paying rent, ie: if they still have a job but with reduced hours
- For other tenants who rely on Government financial support, a significant reduction may be needed. As a guide more than 30% of gross income on rent is considered hardship

Tenants should then put all their information together to present to their Landlord. If they have supporting info such as a termination letter or application for Centrelink payments they should be provided as well.

If the tenant is not paying rent or has advised the landlord that they are having trouble paying their rent due to COVID-19, the landlord must try to come to an agreement with them about the rent they can afford to pay. Landlords would need to be clear about what reduction in rent they can afford them to pay.

Landlords may be able to seek support through insurance, mortgage lender, land tax rebate (<https://www.sro.vic.gov.au/coronavirus>) or rent relief grant as mentioned above.

A Landlord can ask for supporting evidence from a tenant such as a notice of employment termination and evidence about Centrelink payments.

2. Negotiating a rent reduction

Once the information has been forwarded to the Landlord they may put a counter offer back to the tenant, including information about their own financial situation. The Landlord may also be effected by COVID-19 and therefore might not be in a position to meet the request.

Both parties are encouraged to negotiate in good faith:

- Negotiating with the intention to reach agreement
- Try to understand the other parties situation
- Be flexible where possible
- Take into account all of the available info
- Don't make assumptions about the other parties position
- Actively listen and engage in discussions

It is not an intention of the Government that the tenant ends up in a debt situation at the end of the reduced rent agreement period, if a Landlord asks a tenant to defer payments rather than reduce then tenants are encouraged not to agree to their request if it doesn't suit the financial situation.

When an agreement is reached, the details should be registered with CAV so everyone is clear on what has been decided. The key elements are:

- Name of tenant
- Name of landlord
- Property address
- Rent pre-agreement
- Rent for the period of the agreement
- Time period the agreement will be in place

3. Register the Agreement or seek help from CAV

The agreement should be registered here:

<https://online.justice.vic.gov.au/cav-forms/covidcomplaint.doj>.

One registered all parties are notified of the recorded agreement, this can be used to access other Government support such as the rent relief grant

(<https://www.housing.vic.gov.au/help-renting/rentrelief>) or land tax relief

(<https://www.sro.vic.gov.au/coronavirus>).

If either party can't agree then CAV will try and assist with reaching an agreement.

4. Dispute resolution services to reach a rent reduction agreement

CAV will assist by working with the Landlord/Agent and tenant to reach an agreement. The aim is to provide a quick service so both parties can have certainty. CAV will use the info that is provided to try and find an outcome that shares the financial burden.

If the Landlord uses the services of an Agent/Property Manager they should be authorised to make decisions on the Landlords behalf. They would also have to have sufficient info to do so and be transparent in their role as the agent between both the parties.

If CAV are unable to help reach an agreement they will refer the parties to the Dispute Settlement Centre of Victoria for a free, specialised mediation service. If a rent agreement is reached with the help of DSCV it will be recorded and the parties notified of the agreement.

5. Binding orders to determine rent reduction

If the parties still can't agree after mediation through DSCV, the Chief Dispute Resolution Officer for Residential Tenancies will be able to issue binding orders to determine what the reduced rent will be

More information about tenancies under these temporary laws:

- If a tenant wants to leave a tenant they can break their lease early, or have their fixed term rental period reduced, in some circumstances.
- If a Landlord has served a NTV on or after the 29th March 2020 it is of no effect. The Landlord can still seek an order through VCAT to terminate a tenancy under some circumstances: damage to the property, illegal use, serious violence, property being sold or owner moving back in
- A tenant can't be blacklisted if they were unable to pay rent due to COVID-19 (ie: NTD or TICA)
- Eligible tenants can apply for a rent relief grant if they register an agreement with the Landlord with CAV or if they use the CAV dispute resolution process to reach a reduced rent agreement.
- If the tenant is not eligible for a rent relief grant they may be eligible for Commonwealth rent assistance through Centrelink:
<https://www.servicesaustralia.gov.au/individuals/services/centrelink/rent-assistance>
- The new laws are in effect for six months from the 29th March 2020, during this time the landlord can't increase your rent. After that period the rent can be increased in line with the tenancy agreement or Residential Tenancies Act.