

Family violence in a tenancy

Protected persons

This factsheet outlines your options if you are living in a rental property and experiencing family violence.

What is family violence? What you can do

Family violence is any behaviour that in any way controls or dominates a family member and causes them to feel fear for their own, or another family member's, safety or wellbeing. It can include physical, sexual, psychological, emotional or economic abuse and any behaviour that causes a child to hear, witness, or otherwise be exposed to the effects of that behaviour.



If you are living in a rental property and experiencing family violence by a tenant, you can apply for an intervention order at your local Magistrates' Court to exclude that tenant from the property. If the order is granted, you become a **'protected person'** under that order.

You can **change the locks** if a tenant has been excluded from the rental property under a:

- family violence safety notice (issued by the police)
- family violence intervention order (issued by a court), or
- personal safety intervention order (issued by a court)

and you live at the property and are protected under that notice or order.

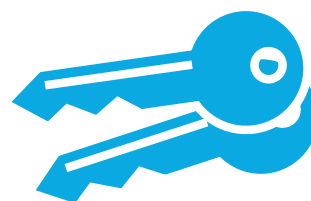
You can also apply to the Victorian Civil and Administrative Tribunal (VCAT) to **change the lease** if a tenant has been excluded from the rental property under a:

- family violence intervention order, or
- personal safety intervention order

and you live at the property and are protected under that order.

See the table on the back of this factsheet for more information.

Changing the locks



To **change the locks**, you must:

- live at the property (you do not have to be on the lease)
- pay for the locks to be changed — the Victims Support Agency (1800 819 817) can provide help and advice
- give a key for any new lock to the landlord and other tenants in the property (except the excluded tenant)
- give a copy of the notice or order (or a certified extract of it) to the landlord.

Once the landlord has a copy of the notice or order, they cannot give the excluded tenant a key for any new lock, as long as that tenant is excluded from the property under the notice or order.

Changing the lease

The process to change the lease depends on whether you want to leave or stay in the property.

If you want to leave

If you are a **protected person** under an intervention order and want to leave the property to ensure your safety or the safety of your children, you can apply to VCAT to end the lease early.

VCAT can decide:

- if the severe hardship you would experience (if the lease continued) would be greater than any hardship the landlord would suffer if the lease ended early
- if the landlord needs to be compensated due to the lease ending early.

The **excluded tenant** can also apply to VCAT to end the lease early on severe hardship grounds, if they are listed as a tenant on the lease, and are worried about their responsibilities under the lease.

If you want to stay

If you want to **stay** in the property without the **excluded tenant**, you can apply to VCAT to end the existing lease and start a new lease with the landlord with the same conditions and rent. The new lease would be for the remaining lease period. For example, if you had five months left on your existing 12-month lease, the new lease will be for five months.

You can apply for a new lease if:

- the intervention order against the excluded tenant is a final order made by the court – i.e. not an interim order
- you live at the property (you do not need to be listed on the existing lease).

VCAT can decide how the bond (if any) will be refunded, and who will be responsible for paying any outstanding expenses on the existing lease (e.g. repairs or bills).

If the landlord or property manager arranges a property inspection during the VCAT proceedings, the excluded tenant can send someone to represent them at the inspection.

More information

Free information and advice:

Consumer Affairs Victoria
1300 55 81 81 (local call)
consumer.vic.gov.au/familyviolence

Services from Consumer Affairs Victoria are available regionally.

TIS - Translating & Interpreting Service 131 450

TTY - Textphone or modem users only, ring the National Relay Service (NRS) on 133 677, then quote 1300 55 81 81.

Callers who use Speech to Speech Relay dial **1300 555 727**, then quote **1300 55 81 81**.



Tenants Union of Victoria
(03) 9416 2577
tuv.org.au

You can get help with the VCAT process:

- over the phone: (03) 9628 9856 or 1300 01 8228 (1300 01 VCAT) (country callers only)
- in person: from a family violence support worker located at 55 King St, Melbourne
- online: vcat.vic.gov.au

You can get legal advice from:

Victoria Legal Aid
1300 792 387
legalaids.vic.gov.au

For further resources and support, visit
justice.vic.gov.au/familyviolence