

Consumer Affairs Victoria

Renting Factsheet

Share houses

July 2003

Sharing a property with one or more people creates either a co-tenancy, where all housemates have equal status, or a sub-tenancy, where there is a head tenant and sub-tenant/s.

Need more information?

Call Consumer Affairs Victoria Helpline on 1300 55 81 81.

Quick Tip

A co-tenancy is created when all tenants sign a Residential Tenancy Agreement, or lease, together and all names appear on the *Residential Tenancy Agreement*.

Co-tenancy

A co-tenancy is created when all tenants sign a Residential Tenancy Agreement, or lease, together and all names appear on the *Residential Tenancy Agreement*. Generally, the bond is paid equally by all housemates and lodged with the Residential Tenancy Bond Authority (RTBA) as one bond. The agreement includes details of how much bond each person has paid.

You should ensure the names of all housemates are on the tenancy agreement. Tenants sharing a rented property are jointly and individually responsible under a tenancy agreement. This means that in a co-tenancy any one individual can be held responsible for the actions of all the tenants, for the total amount of rent owing, and for any costs of cleaning or damages. Alternatively, the landlord can hold all of the tenants responsible.

Changes of co-tenants

If one of the housemates wants to leave the property before the end of a tenancy agreement, that tenant would continue to be held responsible if the landlord has any claims, ie outstanding rent, damage, cleaning etc. The landlord does not have to refund the bond if one tenant leaves the property, as the bond is held for the entire term of the tenancy agreement. However, the remaining housemates can agree to pay the outgoing tenant his or her share of the money.

Quick Tip

Make an agreement about how much notice housemates need to give each other when someone wants to leave or is asked to leave.

Important

The *Residential Tenancies Act 1997* does not cover disputes between housemates, so co-tenancy problems cannot be resolved by VCAT. The Dispute Settlement Centre of Victoria may be able to help.

If there is a change of tenant during the period of the tenancy agreement you must let the RTBA know. The RTBA can only repay the bond to the person, or people, who signed the *Bond Lodgement* form, so you will need a *Bond Transfer - Tenant to Tenant* form to change the details. Get the landlord or agent to sign the form, showing they agree to the change, then send it to the RTBA within five business days of the change of tenancy.

Condition Report

You may also want to request that a new *Condition Report* be filled out. This may involve asking the landlord or agent to inspect the property at the time of the changeover to see if the outgoing tenant is responsible for any damage. It's a good idea to get contact details for the departing tenant, in case of any problems down the track.

Giving notice

Make an agreement about how much notice housemates need to give each other when someone wants to leave or is asked to leave. Let the landlord or agent know when this happens, but remember that if a tenant's name remains on a *Residential Tenancy Agreement*, that tenant may continue to be held responsible under the agreement, even if not living in the property, until the tenancy ends and everyone leaves. This is one of the most difficult areas in shared households and you should work out how to deal with these issues at the start of the tenancy.

Rent and bills

It is a good idea to develop a system for paying rent and bills and agree whose name goes on what bill. Sometimes one person in a shared household takes responsibility for paying rent or bills. This can be a problem if that person fails to make a payment or other housemates fail to pay their share.

If you have paid your share of the rent, but someone else has not, the landlord can start proceedings to have all of you evicted if the rent is more than 14 days overdue.

Sub-letting

Sub-letting is when one person rents a property from a landlord and, in turn, rents out all or part of the property to someone else. The person who has the agreement with the owner is called the head tenant and those who rent from a head tenant are called sub-tenants. The *Residential Tenancy Agreement* between the head tenant and the sub-tenant may be for a fixed term or month to month.

Sub-letting is considered to be a separate tenancy agreement, where the head tenant is acting as the landlord, whether or not the head tenant lives at the property. This means the head tenant has the right to take back the room or property, like any other landlord, provided they act within the law.

You must get the landlord's written consent to assign or sub-let a rented property. If you don't get that consent, the landlord can give a 14-day Notice to Vacate. If the landlord unreasonably refuses consent, you can apply to the Victorian Civil & Administrative Tribunal (VCAT) for an order that the landlord's consent is not required. The landlord or agent cannot charge fees for consent to assign or sub-let.

Disputes

The *Residential Tenancies Act 1997* does not cover disputes between housemates, so co-tenancy problems cannot be resolved by VCAT. The Dispute Settlement Centre of Victoria may be able to help.

Disputes between head tenants and sub-tenants can be heard and determined by VCAT.

Where to get help

For more detailed information, get a copy of *Renting a Home: a Guide for Tenants and Landlords*. Landlords or their agents must give everyone who rents a home from them a copy of the guide. Copies are available from Consumer Affairs Victoria or our website on www.consumer.vic.gov.au.

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Further reading

Consumer Affairs Victoria has a range of renting related fact sheets:

- Before you decide to rent
- Ending a tenancy
- Inspections for tenants
- Paying the rent
- Privacy and access
- Rental bonds
- Repairs and maintenance
- Resolving tenancy problems
- Share houses

More information

Information on renting and copies of *Renting a Home: a Guide for Tenants and Landlords* and forms are available from

**Consumer Affairs Victoria
Victorian Consumer &
Business Centre**

113 Exhibition Street
Melbourne 3000

Telephone 1300 55 81 81

Website www.consumer.vic.gov.au

For information about bonds contact the RTBA on

1300 13 71 64



The information contained in this fact sheet is of a general nature only and should not be regarded as a substitute for a reference to the legislation or professional advice.
Authorised by the Victorian Government, 121 Exhibition Street, Melbourne, Victoria, 3000.

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