# Detailed Reference Guide 29: Calculation of compensation for termination of a fixed term rental agreement

This reform starts on 29 March 2021.

## New requirements

When a renter terminates a rental agreement earlier than the required notice period, the renter will be liable to compensate the rental provider for lease breaking. The rental provider can apply to VCAT for an order that the renter pay compensation.

When calculating the amount of compensation payable to the rental provider, VCAT must:

* determine any relevant advertising costs and reletting fees in proportion to the actual cost to the rental provider to secure the renter[[1]](#footnote-1)
* consider the amount of lost rent that could have been reasonably avoided by promptly reletting the property to a new renter
* have regard to any severe hardship the renter would have been expected to suffer due to an unforeseen change in circumstances, if the agreement had continued
* take into account if:
* the renter gives a notice of intention to vacate within a reduced period in circumstances allowed by the Act (i.e. in response to a notice to vacate received from the rental provider or otherwise), or
* the renter terminates a fixed term rental agreement of 5 years or longer because it did not comply with the standard form required.

If the rental provider issued a notice to vacate to the renter, then no compensation can be awarded for loss of future rent, unless the notice was issued in response to a termination or repudiation by the renter.

These requirements also apply when VCAT calculates the amount of compensation payable to the site owner by a site tenant who has terminated a site agreement earlier than the required notice period.

## Relevant legislation in the *Residential Tenancies Act 1997*

|  |  |
| --- | --- |
| 211A(3)-(5) | Further matters to be considered by Tribunal |

Note: This was Reform 84 in the Fairer Safer Housing review.

1. A renter has lived in rented premises under a residential rental agreement, on terms including a 12 month fixed term, rent of $500 per week and a reletting fee of $500. The renter notifies the property manager that the renter will terminate the rental agreement 6 months before the end of the fixed term. The property manager advertises the rented premises for rent immediately and finds a new renter. The advertising costs were $250. The new renter enters the premises one week after the previous renter vacates the premises. The residential rental provider's costs of advertising and reletting fees are $1000, which is the sum of one week's rent ($500), the reletting fee pro-rated for 6 months of the unexpired term of the agreement ($250) and advertising costs ($250). [↑](#footnote-ref-1)