



Deakin Student  
Legal Service

# Tenancy: Renting During COVID 19

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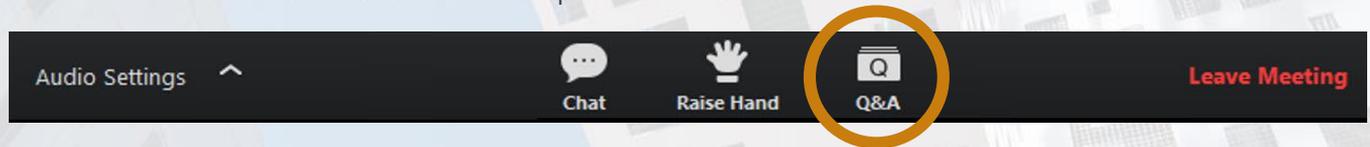
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# Webinar House-Keeping

## ▶ Webinar format

- ▶ No cameras or microphones except for presenters
- ▶ If you have a question, use the Q&A button at the bottom of the screen.
- ▶ Questions will be moderated and answered gradually – please be patient! Some will be answered in text, others by the presenter, and some will be answered at the end of the presentation.



## ▶ This webinar is being recorded!

- ▶ If you are watching this webinar as a recording, please make sure you have the most up-to-date information as things are likely to change quickly during the pandemic.
- ▶ If you ask a question, be aware it may be read out and answered in the recording.

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  - ▶ <http://www.eclc.org.au/deakin>
- ▶ By phone:
  - ▶ Burwood: 1300 32 52 00; Geelong: 1300 430 599



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# What Do We Do?

## Areas of Law

- ▶ Fines / Infringements
- ▶ Motor Vehicle accidents (not TAC)
- ▶ Debt / Bills / Consumer problems including Scams
- ▶ Tenancy / Housing
- ▶ Employment Law including Sexual Harassment and Bullying
- ▶ Stalking & Family Violence
- ▶ Family Law
- ▶ Reporting Sexual Assault
- ▶ Discrimination
- ▶ Minor Criminal Matters
- ▶ Victims of Crime Assistance
- ▶ Student Visas / Migration Law\*

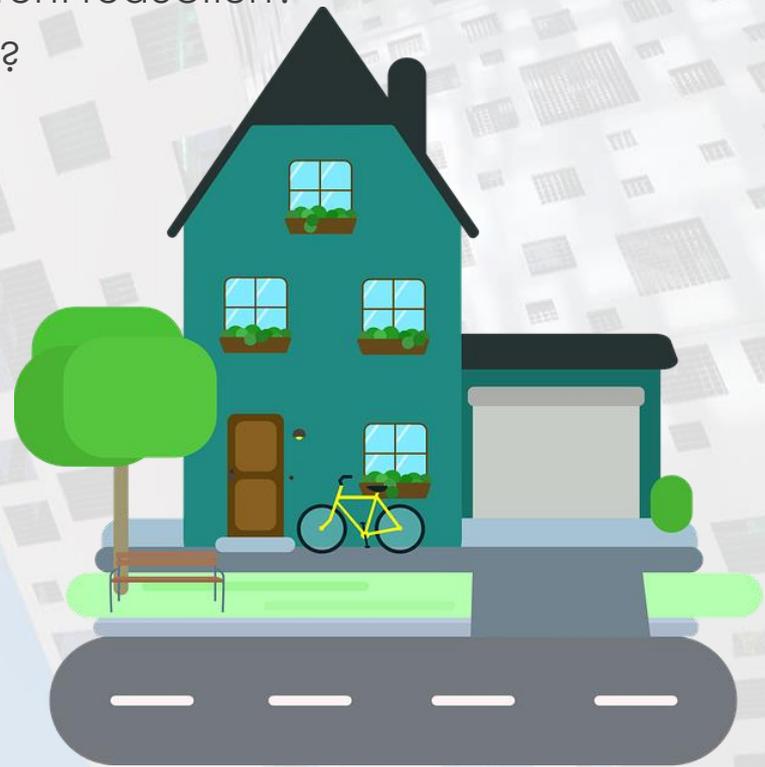
## What We Don't Do

- ▶ Any commercial law or property transfers
- ▶ Intellectual property or copyright law
- ▶ Problems with studying or academic progress (referral to DUSA Student Advocates)
- ▶ Tax law or tax returns (referral to Tax Help Clinic)
- ▶ Disputes with Deakin University or DUSA

# RENTING in COVID 19

What we will cover today:

- ▶ What you can do if:
  - ▶ You can't afford to pay rent?
  - ▶ Your landlord won't agree to a rent reduction?
  - ▶ You need to leave the property?
  - ▶ You need financial help?



# Types of tenancies

- ▶ There are many types of tenancies/rental agreements.
- ▶ Depending on what type of agreement you have you may have different rights and obligations.
- ▶ Sometimes it can be hard to know what type of agreement you have.
- ▶ For today's presentation we will use a standard residential tenancy lease for the examples given.
- ▶ **Please seek specific Advice For:**
  - ▶ Rooming Houses, Caravan Parks, Site Agreements and Disability Accommodation.
  - ▶ Sharehouses that involve sub-letting or disputes between tenants
  - ▶ Separations and Family Violence
  - ▶ Temporary Migrants or Immigration / Visa concerns

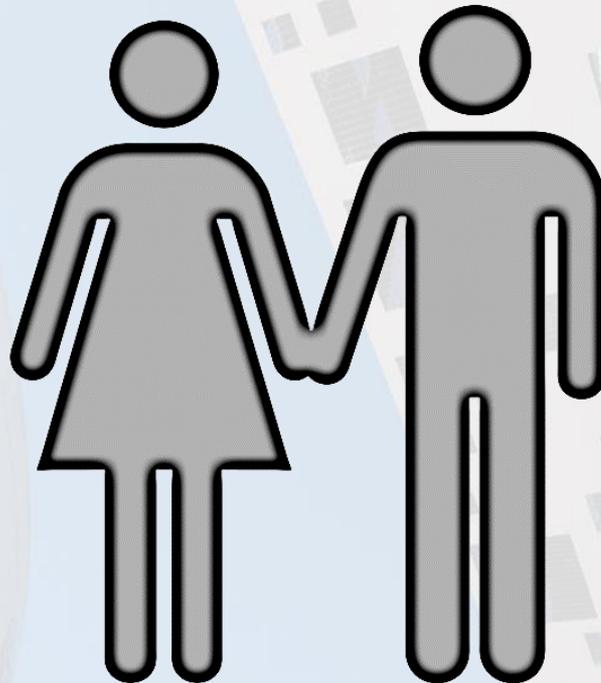
# Renting Laws have changed due to COVID-19:

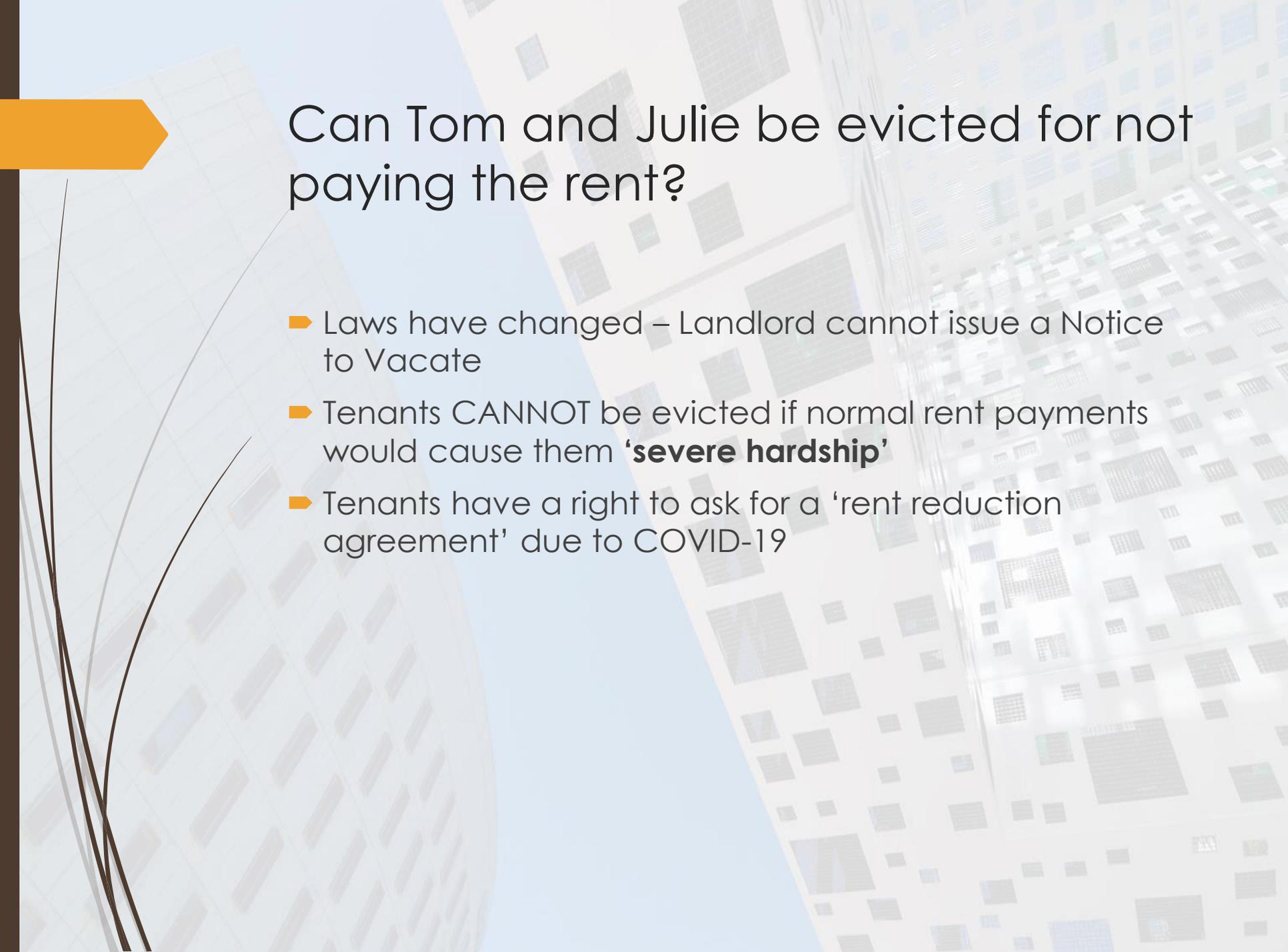
- ▶ Tenants, Real Estate Agents and Landlords may not be up to date on the law (but they should be now)
- ▶ The laws can quickly change again, literally by the 'stroke of a pen'
- ▶ Real Estate Agents may be busy doing 'business as usual' and not change their policies or procedures
- ▶ There are many new tenancy laws being introduced next year



# Case Study – Loss of Income

- ▶ Tom and Julie have a tenancy agreement which ends on 10 February 2021 – paying \$300 per week.
- ▶ Due to COVID-19, Tom loses his job and Julie is 'stood down' without pay. They have used up all of their savings.
- ▶ They can't afford the rent... can they be evicted?





# Can Tom and Julie be evicted for not paying the rent?

- ▶ Laws have changed – Landlord cannot issue a Notice to Vacate
- ▶ Tenants CANNOT be evicted if normal rent payments would cause them **‘severe hardship’**
- ▶ Tenants have a right to ask for a ‘rent reduction agreement’ due to COVID-19

# What can Tom and Julie do if the Landlord applies to Terminate the Tenancy?

- ▶ They will receive a VCAT Application
- ▶ The Hearing would be conducted by phone conference (sometimes video) but not in person presently.
- ▶ VCAT must weigh up 'reasonable and proportionate' factors
- ▶ VCAT can make a 'termination order'.
- ▶ If a termination order is made you may not have to move out straight away. The earliest date for the lease to terminate depends on the reasons the landlord has applied to terminate the lease and the type of Order VCAT makes.



# Question Time



# What are Tom and Julie's rights to ask for a rent reduction?

- ▶ Tom and Julie can ask for their rent to be reduced due to COVID-19.
- ▶ There is a new processes which did not previously exist, including a right to apply to VCAT.
- ▶ You **MUST** first negotiate and if you can't reach an agreement **THEN** apply to Consumer Affairs Victoria for mediation who can then make a binding order or refer the matter to VCAT.
- ▶ Tenants Victoria has a good guide to rent reductions that can be found at –  
<https://www.tenantsvic.org.au/advice/coronavirus-covid-19/rent-reductions/>



# What is a fair amount of rent reduction for Tom and Julie?

- ▶ Paying over 30% of income is considered to be 'rental hardship' – not recommend
- ▶ **Reduction vs Deferment:** The agreement could be to reduce the rent for a temporary period – for example 3 or 6 months – this would mean that you would not have to pay the difference between the old and new rent later on. This is the kind of agreement recommended by Consumer Affairs Victoria on their website and the best terms for you as a tenant.
- ▶ Another type of agreement is to defer some or all of the rent payments – which will leave you with a large debt later on. Think very carefully before you decide to sign any agreement that will create a large debt.
- ▶ **WATCH OUT!** *Real Estate Agents might try to get you to sign a 'payment plan' which doesn't actually reduce the rent – make sure any agreement is clear that the 'rent payable' is being reduced.*

# Are there some examples of 'rent reduction agreements' available?

- ▶ Consumer Affairs Victoria has a template agreement on their website – use this – it is clearly a 'reduce' not 'defer' agreement...
- ▶ **6. Ongoing obligations in relation to rent**
- ▶ The parties agree that—
  - after the expiry of this AGREEMENT, the tenant(s) have paid the full amount of the rent owing under the Primary Tenancy Agreement during the period that this AGREEMENT applies to reduce that amount;
  - the expiry of this AGREEMENT does not revive any obligation to pay any amount of rent under the Primary Tenancy Agreement that exceeds the amount payable under this AGREEMENT for the duration of this AGREEMENT; and
  - rent payable after the expiry of this AGREEMENT (if any) is subject to the terms of the Primary Tenancy Agreement.

# Real Estate Agent Example – In Use

- ▶ Many Agencies are asking Tenants to complete Application Forms which:
  - Request personal information and documents more than is required
  - Give rights to pass on this information to third parties ie Banks / Insurers
  - Are a 'defer' and 'repay later' agreement
- ▶ I/We propose to repay the reduction:
- ▶ Date repayments commence (date must coincide with end of the proposed period):  
\_\_\_\_\_
- ▶ Repayment amount: \$ \_\_\_\_\_ (e) + Weekly Rent: \$ \_\_\_\_\_ (a) = Total weekly payment of: \$ \_\_\_\_\_ (e + a)
- ▶ Repayment period: \_\_\_\_\_ (d / e)
- ▶ In addition, if my/our financial circumstances change, example I/we secure employment, we will advise the Agent immediately. In this event, I/we understand that the Landlord may alter or cancel any agreed adjustment to the rent.
- ▶ I/We understand that a copy of this application and supporting documentation may be shared with the Landlord, and that the Landlord may share the information with third parties, including but not limited to, their legal and financial advisers, banks, mortgagee(s), government and state agencies.



# Question Time



## Case Study – Leaving due to COVID-19

Tom and Julie have no income, no savings and no family in Victoria that can assist them.

Julie's mother owns a house in rural NSW and has offered that Tom and Julie can stay there rent free until they are able to find new jobs.

Their tenancy agreement is until 10 February 2021.

Can they leave their tenancy agreement early?



# How can Tom and Julie legally leave their tenancy early?

- ▶ Usual rules for Tenant to issue a Notice of Intention to Vacate still apply:
  - ▶ 28 days before end of fixed term tenancy
  - ▶ 28 days if in a 'month to month' agreement
  - ▶ Compensation payable to Landlord is the actual cost of securing new tenant – may include re-letting fees, advertising, etc

# How can Tom and Julie legally leave their tenancy early?

- ▶ 14 day notice if 'need special care', crisis accommodation, accept public housing offer
- ▶ New 14 day Notice for 'severe hardship' – regardless of length of tenancy left
- ▶ Tenant can also apply to VCAT to reduce length of tenancy if 'severe hardship'
- ▶ No compensation for above reasons

# How do Tom and Julie know what it will cost them to leave early?

- ▶ The tenancy agreement is NOT the final word
- ▶ New laws state that VCAT will only award the actual costs of securing a new tenant
- ▶ Only amount for loss of rent if Landlord tried to reduce their loss by 'promptly' reletting (mitigation of loss)
- ▶ No compensation if leaving due to 'severe hardship' reasons stated above (with correct notice)
- ▶ Can make an agreement with the Landlord
- ▶ WATCH OUT! Real Estate Agents may ask you to pay set costs when you leave a tenancy early, even when one of the reasons above apply. Do not agree to pay just because it is written in the Tenancy Agreement as the new laws override these agreements – seek legal advice on what you do actually need to pay.

# Can Tom and Julie access financial assistance if they struggling to pay the rent?

- ▶ Yes – In addition to rent reductions there are a number of grants available, each has a different criteria.
- ▶ These include:
  - ▶ Victorian Government's Rent Relief Grant
  - ▶ Deakin University COVID-19 Financial Assistance
  - ▶ Rent Assistance through Services Australia
  - ▶ Private Rental Assistance Program
  - ▶ No Interest Loan Scheme
  - ▶ Utility Concessions



# Can the Landlord later list Tom and Julie on a 'blacklist' or 'credit report' for owing rent?

- ▶ New laws prevent Landlords or Real Estate Agents from listing on a 'tenancy database' if the reason for the debt arose (non-payment of rent) was due to COVID-19
- ▶ Also Tenancy debt can't be listed on a 'credit report' unless subject of a Court Judgement
- ▶ Tenants could be listed for other reasons such as damage to the property resulting in a VCAT Order



# Question Time



## Other resources

- ▶ [Tenants Victoria](#) – factsheets and advice
- ▶ [Anika Legal](#) – sample letters and advice
- ▶ [Justice Connect Dear Landlord](#) – sample letters
- ▶ [Consumer Affairs Victoria](#) – online information and negotiating with Landlords
- ▶ [COVID-19 Rent Relief Grant](#)

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# Feedback

- ▶ We appreciate your feedback, please complete a short survey at - <https://www.surveymonkey.com/r/YQPD68F>