

Victorian Small Business Commission form that may be sent under the Commercial Tenancy Relief Scheme

Initial form: where a landlord has applied for help to resolve a dispute

Dear **[INSERT TENANT'S NAME]**

In relation to leased premises at: **[INSERT ADDRESS OF PREMISES]**

The Victorian Small Business Commission (VSBC) provides an impartial alternative dispute resolution service to help landlords and tenants resolve disputes under the Commercial Tenancy Relief Scheme (the Scheme). The Victorian Government introduced the Scheme to alleviate financial hardship faced by commercial tenants and landlords as a result of coronavirus (COVID-19). The Scheme has been further extended to enable tenants to seek rent relief up until 28 March 2021.

We have received the attached application from your landlord relating to rent relief. From the information your landlord provided, I understand that you and your landlord have been unable to agree on rent relief. **It's important to be aware of the following:**

- **If a tenant who is eligible for the Scheme's supports hasn't followed the required process for requesting rent relief, they may be in breach of their lease and at risk of being evicted.**
- **A tenant is only entitled to rent relief in proportion to their fall in turnover from the date they apply for rent relief to their landlord, supplying all of the required information.**

Please respond in writing to your landlord's application, along with the following information, within seven business days of the date this email ([INSERT DATE]**), using the response form at the end of this email as a guide:**

- A statement indicating whether the lease is eligible for the Scheme and if so, a statement indicating that the lease is not excluded from the regulations for the Scheme
- A statement that your business is a small to medium sized entity
- Your current rent
- The amount of rent relief you have requested
- Evidence that you are taking part in JobKeeper (i.e. a copy of your Business Registration for JobKeeper Wage Subsidy receipt number issued by the ATO AND a copy of your most recent notice to the ATO under the JobKeeper Rules)
- Your fall in turnover (as a percentage)
- Evidence of your fall in turnover (see question 36 in our responses to frequently asked questions about the Scheme by [clicking here](#)), attaching one of the following:
 - Extracts from your accounting records OR
 - Your business activity statement(s) that relate to the relevant turnover test period OR
 - Statements issued by an authorised deposit-taking institution (e.g. a bank) that relate to your account OR
 - A statement prepared by a practicing accountant

When providing your response, you should consider the rights and obligations of tenants and landlords as set out in the regulations for the Scheme, the process to be followed for rent relief

and responses to frequently asked questions, which you can find on our website (by [clicking here](#)). I will provide your response to your landlord.

Please note that rent relief provided under the Scheme must be in proportion to (i.e. match) an eligible tenant's fall in turnover. At least 50 per cent of the rent relief is to be made up of a rent waiver, unless the tenant and landlord otherwise agree in writing. The remainder can be made up of a rent deferral or other indirect rent relief.

If the Scheme doesn't apply to your situation, we urge you and your landlord to follow the leasing principles set out in the Mandatory Code of Conduct SME Commercial Leasing Principles During COVID-19 (the Code). You can access the Code by [clicking here](#). The following information is also relevant.

The importance of responding to this email: proceeding to the Victorian Civil and Administrative Tribunal (VCAT)

If you don't respond to this email in the terms requested, the VSBC may issue a certificate that mediation (or another appropriate form of alternative dispute resolution) is unlikely to resolve the dispute. The landlord may then take this certificate to VCAT.

If the dispute is in relation to a retail tenancy, section 92(2) of the *Retail Leases Act 2003* gives VCAT the power to order any party that has refused to take part in mediation or another form of alternative dispute resolution to pay the other party's costs for going to VCAT.

If a party doesn't respond to communication we send, the VSBC may issue a certificate noting refusal.

Mediation

Where an agreement can't be reached early on, the next likely step is arranging a mediation session as soon as possible. At mediation, an experienced and independent professional (the mediator) guides both parties in fair and confidential negotiations with the aim of reaching an outcome they can both accept. Mediation is a quick, effective and low-cost alternative to going to court. At the moment, our sessions are being held by video or phone.

Because the VSBC doesn't provide legal or other professional advice, you should consider gaining this advice from a suitably qualified and experienced person (e.g. a lawyer, accountant or other relevant professional). Legal or other professional advice may be helpful and important before and during your mediation session. For more information, you can access our guide to mediation by [clicking here](#).

Further questions

If you have any questions or would like to discuss this matter, please contact me via my details below. I look forward to helping you and your landlord to quickly resolve this matter.

Yours sincerely

[Form to guide a tenant's response to this dispute notice](#)

N.B. this form provides guidance on how the tenant can respond to the VSBC and can be adapted as needed.

VSBC file reference number: [INSERT NUMBER]

Dear XX [INSERT THE VSBC DISPUTE RESOLUTION OFFICER'S NAME]

I refer to the dispute notice sent to me concerning rent relief.

My response to the dispute notice is as follows:

[INCLUDE THE DETAILS OF THE RESPONSE, WHICH CAN BE SET OUT AS SHOWN IN THE FOLLOWING EXAMPLE:]

I have provided evidence that there has been a [XX] per cent reduction in turnover. As such, I am requesting [XX] per cent rent relief for the period [INSERT DATE, MONTH AND YEAR] to [INSERT DATE, MONTH AND YEAR]. [XX] per cent of this rent would be in the form of a rent waiver, amounting to \$[XX] per [month/week] and [XX] per cent in the form of a rent deferral amounting to \$[XX] per [month/week]. The deferred rent would be repaid over [XX] months at the amount of \$[XX] per month, starting on [INSERT DATE – DATE MUST BE AFTER 28 MARCH 2021].

If you would like to discuss this matter, please contact me.

Yours sincerely

[INSERT NAME]