

Retail leases in Victoria are governed by the *Retail Leases Act 2003*, which imposes a range of rights and obligations on retail tenants and landlords. In addition, the *Commercial Tenancy Relief Scheme Act 2021* was established in response to the pandemic. Although repealed on 30 April 2022, regulations made under that Act applied through to 30 October 2022.

Laws governing retail leases can be complex. If a small business tenant is at risk of eviction, seeking legal advice may be warranted and beneficial.

If there is sufficient time to assess the client's financial situation:

1. Assess client's financial situation.
2. Read and understand the lease document, particularly special conditions, and any documentation relating to rent waivers/deferrals.
3. Understand why the lock out/eviction is planned.
4. Seek to negotiate with landlord on payment plans or delays to gain some breathing space for the client and/or potentially rectify the issue triggering the lockout. This could include seeking the landlord's agreement to delay the lockout while mediation takes place.
5. If there are underlying issues generating dispute between landlord and tenant, including the impact of rent deferral/waiver scheme during COVID, apply for mediation via the Victorian Small Business Commission (VSBC) help portal.
6. Client should be informed that if the lockout proceeds, although entitled to do so even if the lock out occurs, it will be difficult for the client to extract its assets – stock, personal goods, etc. – so encourage removing these before the lockout is effected.

If there is insufficient time to assess the client's financial situation:

1. Seek to understand why the lock out/eviction is planned. Review documents, including lease (particularly special conditions) and any documentation relating to rent waivers/deferrals.
2. Contact VSBC to discuss whether applying for mediation may be appropriate. VSBC can prioritise matters for mediation when an eviction is possible.
3. Where time is of the essence, the client may need to seek an injunction at VCAT to delay the lockout pending VSBC mediation. Legal advice may need to be sought.
4. Client should be informed that if the lockout proceeds, although entitled to do so even if the lock out occurs, it will be difficult for the client to extract its assets – stock, personal goods, etc. – so encourage removing these before the lockout is effected.

VSBC Contact Information

13 87 22

[vsbc.vic.gov.au](https://www.vsbcc.vic.gov.au)