



Roofs For Ransom

12 month report

Acknowledgement

To all RAHU members who contributed their stories, time and experiences to the union and this report.

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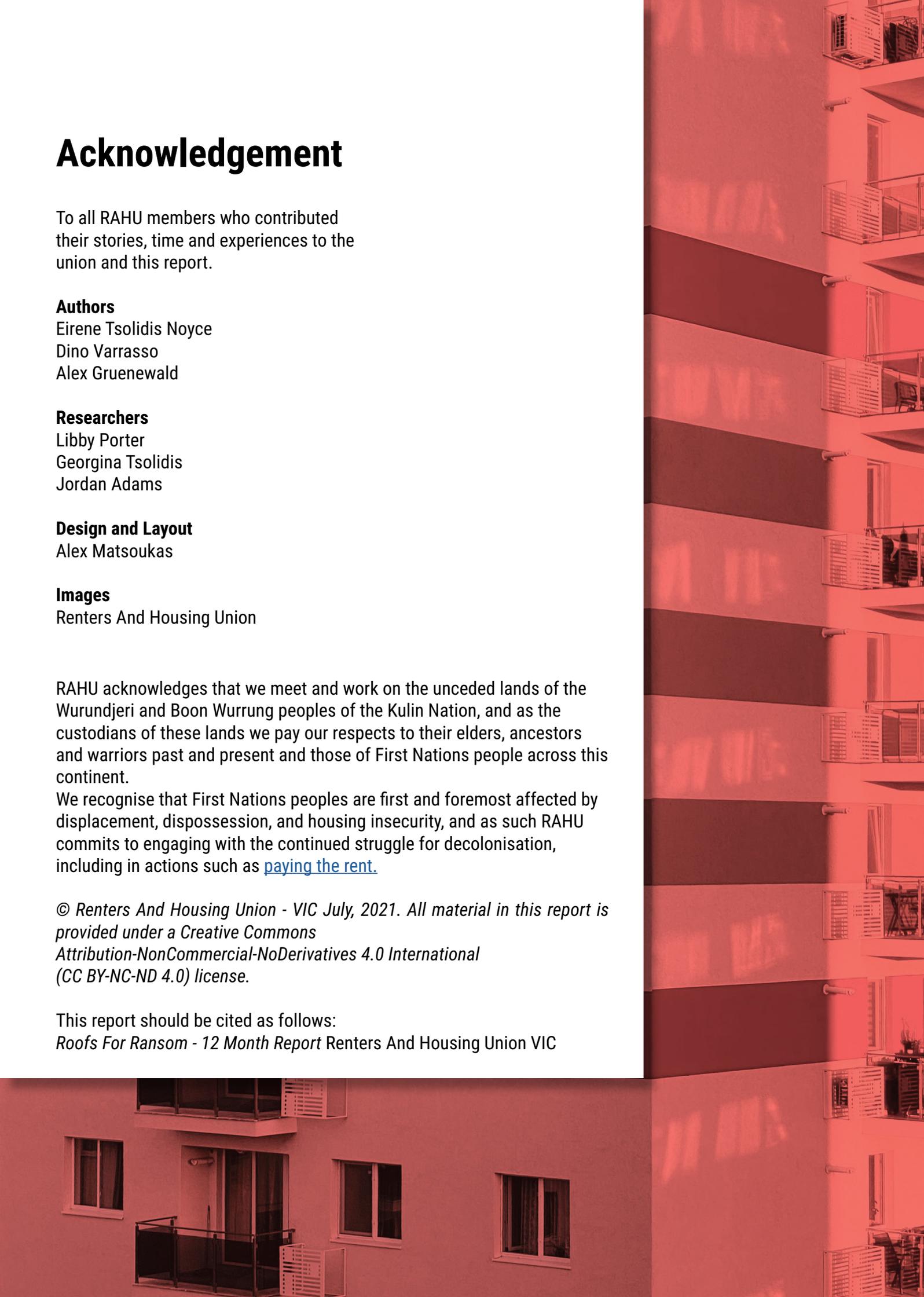
RAHU acknowledges that we meet and work on the unceded lands of the Wurundjeri and Boon Wurrung peoples of the Kulin Nation, and as the custodians of these lands we pay our respects to their elders, ancestors and warriors past and present and those of First Nations people across this continent.

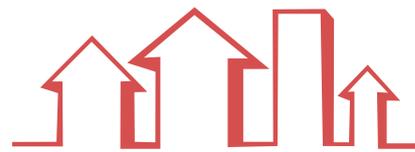
We recognise that First Nations peoples are first and foremost affected by displacement, dispossession, and housing insecurity, and as such RAHU commits to engaging with the continued struggle for decolonisation, including in actions such as [paying the rent](#).

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Contents

- 1. Foreword**
 - 2. Highlights of our Advocacy**
 - 3. Our Demands**
 - 4. Executive Summary: Findings from RAHU Caseworks**
 - 5. Executive Summary: Recommendations**
 - 6. Renters Rights Support Team**
 - 7. Impact Statement**
 - 8. Who Did We Support?**
 - 11. What Issues Did Renters Face?**
 - 22. Roofs for Ransom COVID-19 Rental Survey Findings**
 - 24. VCAT Findings**
 - 25. Recommendations**
 - 27. Appendix: Methodology**
 - 29. Glossary**
-

Foreword

The Renters and Housing Union (RAHU) was formed over one of the most challenging years in our lifetimes. Despite this, RAHU members have achieved considerable success as a newly formed member-run renters' union.

This report will outline the achievements of our union's inaugural year. This is focused in key areas including our self advocacy; the impact of our Renters Rights Support Team; the research findings drawn from our casework and the wider rental environment; and our legislative recommendations to systemically address the challenges we live with day to day at our doorstep.

As renters, we are directly experiencing the effects of a broken housing system. We are increasingly living in unliveable conditions and spending more than 60% of our incomes for it. We live with the constant disruption of quiet enjoyment, whether in unannounced inspections, or the longer term insecurity of only being given a 3 month lease. We're living with the effects of being pushed into greater insecurity and even longer term uncertainty.

The pandemic demonstrated the importance of a home. The consequent economic crisis exposed who among our population would be financially secure enough to 'stay at home' - exemplifying the failings of our current housing system. The commodification of housing has had disastrous effects on the health, wellbeing and living standards of generations of people who haven't had the opportunity of ownership. In the continued choice to not regulate the housing market, successive governments have turned an essential need into a commodity that's unattainable for too many, and already impossible for those of us who need it the most.

As a result of these challenges and our experiences during the pandemic, we have chosen to collectivise and empower each other to self-advocate for a stable place to call home.

RAHU members are fighting back together through our strength in union.



Eirene Tsolidis Noyce
Secretary, Renters And Housing Union
(RAHU)

Highlights of Our Advocacy



Our members' self-advocacy has been key to establishing RAHU as an effective force in the struggle for renters rights, articulated through the Union's key demands.

Renters Rights Support Team (RRST)

RRST has grown from 3 to 7 members since formation, handling 86 noted cases and countless short queries over the last 12 months.

Provided ongoing assistance to renters in rent reductions; breaches to their residential tenancy rights; and case support against eviction during COVID19 and beyond.

Renters Rights Information Nights

Hosted monthly Renters Rights Info Nights open to the community, providing a forum for local renters and RAHU members to share knowledge and skills.

Developed information pamphlets about renters rights, which were distributed widely through community events, online forums, social media and on our website.



Our Demands

Extend Rental Protections

Attracted wide public support for our demands for rental protections, which contributed to the successful extension of the Eviction Moratorium 3 times from March 2020 to March 2021.

Submitted recommendations to the Public Accounts and Estimates Committee in September 2020, urging for the extension of the moratorium on rental evictions and a rapid expansion of public housing stock to meet rising demand for affordable housing.

Gained national media coverage through RAHU activists sharing their experiences of defending themselves against eviction and contesting rental debt. RAHU members used this platform to advocate for the elimination of rental debt and extension of the eviction moratorium.

Cancel Rental Debt

Successfully negotiated the waiver of rental debts of over \$20,000 for RAHU members and renters in individual claims

Initiated a joint Open Letter and petition endorsed by 20 Trade Unions and Community Organisations, reaching 1,500 signatories in July 2021.

Shared our recommendations with the VCAT Commissioner of Residential Tenancies, the Department of Treasury and Finance, Consumer Affairs Victoria, the Department of Housing and Human Services (now known as the Department of Families, Fairness and Housing), various Community Legal Centres, and a number of tenancy and housing peak bodies.

Executive Summary: Findings from RAHU casework

An analysis of RAHU casework notes identified a number of major reasons why renters had sought RAHU assistance, as well as the key demographic groups represented in our casework.

Rental Stress

- 91% of renters were in rental stress.

The average percentage of income spent on rent was 67% across all cases.

- Across all cases where the rental amount charged was recorded, the average monthly rent per person was \$1,163.45.
- Cases involving renters ineligible for government income assistance - especially those with Temporary Visa status - were overrepresented in RAHU casework.

Rental Debt

- 59% of cases involved rent reduction claims.

Breaches by Landlords and Real Estate Agents

- 31% of cases reported unprofessional behaviour by Real Estate Agents.
- In 4 cases renters received threats of violence or experienced physical or verbal violence from their landlord.

Terminations and Evictions

- 84% of cases involving termination proceedings or unlawful eviction were initiated before the eviction moratorium was set to expire on March 29 2021.

Executive Summary: Recommendations

Restrict the enforcement of evictions and debt collections via VCAT or Victorian Courts for any debt arising due to COVID-19.

VCAT must dismiss deferred rent accrued through agreements made through dispute resolution, or any type of rent reduction agreement, based on unfair terms of contract and misconstrual of the legislated rent reduction scheme.

The Victorian Government must implement a mechanism allowing VCAT and Consumer Affairs Victoria to waive rental debts accrued due to financial hardship during the COVID-19 Moratorium period and any period of Stage 4 Restrictions.

The Residential Tenancies Act should be amended to allow for rent reductions for renters in hardship or experiencing rental stress.

Renters Rights Support Team



RAHU established the Renters Rights Support Team (RRST) to provide support to renters during their tenancy. Claims arose over repairs, bonds, eviction and lease termination, rent reductions, rent debts and deferrals.

The team supports renters by assisting in correspondence with landlords and real estate agencies; assistance in preparation and representation to VCAT hearings and

mediation; and providing support and safety to renters facing harassment and/or intimidation from landlords and real estate agents.

The RRST also supported renters to self-advocate and organise with each other, by building connections between RAHU members in their local areas.

Alex Gruenewald
Renters Rights Support Team



Impact Statement

In the 12 months since its foundation the RRST has handled a total of **84** cases involving **146** claims.

This amounted to a total of **\$139,947.16** of debt to those involved. **\$126,775.20** of this debt was resolved in favour of our members by negotiating rent reductions, debt waivers, preventing rental increases, or claiming bonds.

Some of these cases are still pending resolution.

Total Cases
for
12 Months

84

Number of
Claims
Handled

146

Total Debt
in Dispute

\$139,947.16

Total Amount
Resolved

\$123,607.00

Breakdown by claim type

Rental Debt
Waived

\$74,246.00

Rent Reduction
Amount Saved

\$33,208.20

Total Bonds
Saved

\$12,238.00

Rental Increase
Saved

\$3,915.00

Who Did We Support?



Renters assisted by RAHU were overwhelmingly likely to be renters on low incomes; experiencing severe rental stress; and/or holding Temporary Visas.

The economic damage caused by the COVID-19 pandemic was not felt by everyone equally. Low-wage workers, unemployed and marginalised groups were placed in a uniquely vulnerable position, especially those ineligible for COVID19 income support.

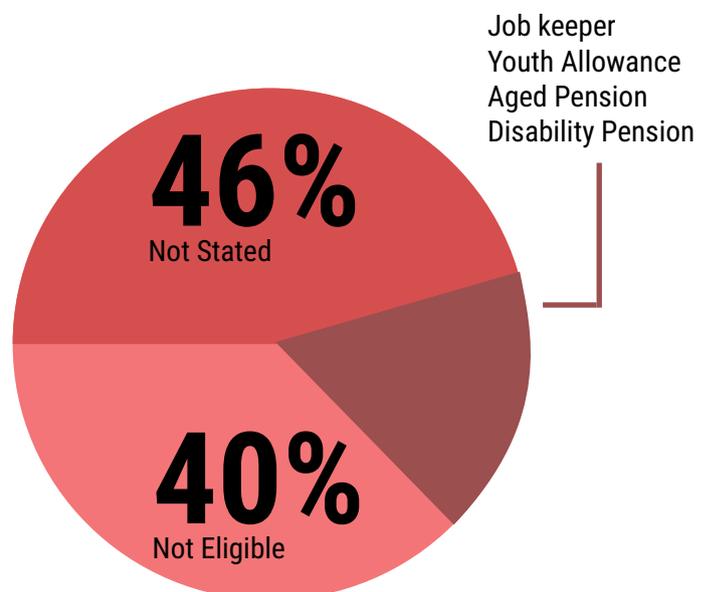
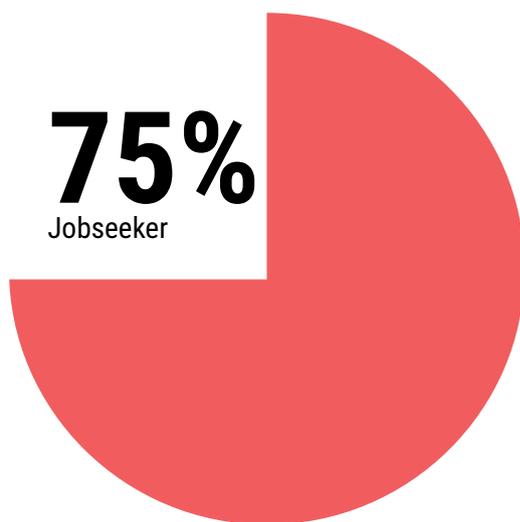
Renters with a Temporary Visa

The Federal Government excluded Temporary Visa holders from receiving income support measures introduced at the onset of the

COVID-19 pandemic, causing extreme financial hardship to an already precarious demographic.

Approximately half of international students are renters¹, often lacking the support networks of long term residents. Without access to income support payments, visa holders have been at greater risk of homelessness, more likely to have gained early access to Superannuation funds and have relied heavily on support from non-for-profit organisations, such as foodbanks supplying groceries and other essentials².

Renters with a Temporary Visa appeared in a third of RAHU cases.



What Government Income Support did our cases have?

¹ [Why coronavirus impacts are devastating for international students in private rental housing \(theconversation.com\)](https://theconversation.com/why-coronavirus-impacts-are-devastating-for-international-students-in-private-rental-housing-148888)

² Laurie Berg and Bassina Farbenblum, [As if we weren't humans: The abandonment of temporary migrants in Australia during COVID-19](https://www.mwji.org.au/2020/08/12/as-if-we-were-not-humans-the-abandonment-of-temporary-migrants-in-australia-during-covid-19/) (MWJI, 2020)

Who Did We Support?

25% (21 out of 84) of cases were renters on some type of Temporary Visa.

All 21 Temporary Visa holders had lost their entire income at the time of contacting the RAHU support team, causing extreme hardship and rental stress.

6 Temporary Visa holders represented in RAHU casework had no formal lease.

All 6 temporary visa holders on informal leases reported experiencing some form of harassment or abuse by their landlord or head tenant at the time of seeking RAHU's assistance.

Out of the 9 extended cases there was a total debt in dispute of \$57,960.

In 4 of these cases, Temporary Visa holders had each accumulated rental debt exceeding \$10,000 due to loss of income.

\$41,358 of the total debt in dispute has been resolved with RAHU's assistance. 3 cases are still pending resolution.



Low Income Renters

The COVID19 pandemic saw an extreme rise in unemployment from March 2020. The delay in rolling out JobKeeper income subsidies and the COVID-19 supplement for the unemployment left many newly-unemployed renters without income to cover rent from March to late April.

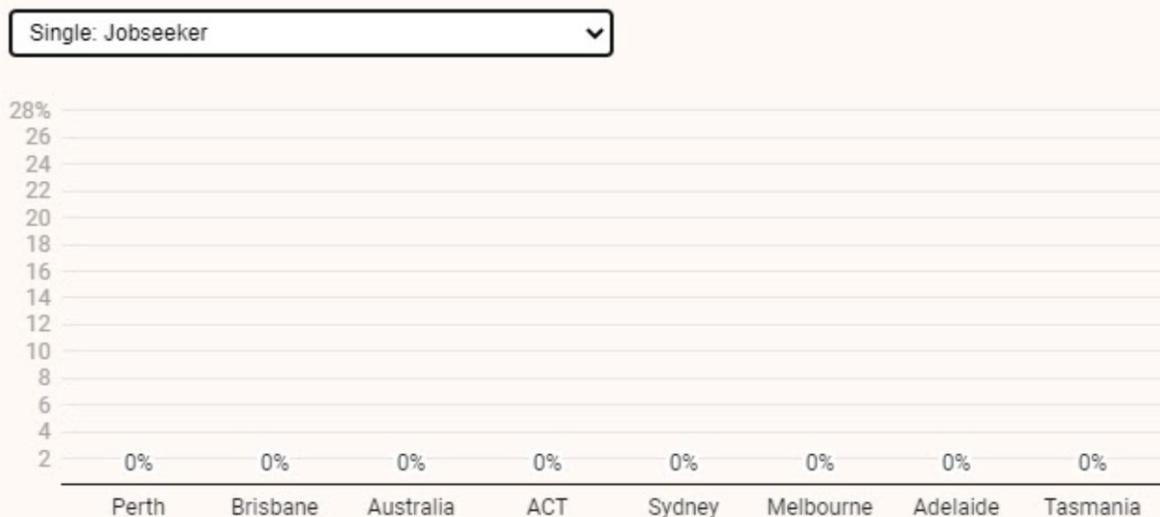
Before the pandemic, rental stress was already an urgent issue for renters receiving unemployment income support payments (then known as Newstart). Prior to 2020, income support payments had not risen in line with inflation in over 25 years, leading an increased rate of poverty amongst unemployed people.

Renters receiving the Disability Support Pension were excluded from legislated increases to income support payments that were enacted during the COVID-19 period, and therefore deprived of the rental relief offered by income subsidies.

56% (47 of 84) cases handled by the Renter Rights Team involved renters receiving income support

- 33 renters received Jobseeker
- 8 renters received Jobkeeper
- 6 renters received the Disability

Rental affordability in March 2021 by family type and capital city



Anglicare - Rental Affordability Snapshot 2021

³ Rental Affordability Snapshot, Anglicare 2021

⁴ Measures of Australia's Progress 2010 - Housing, Australian Business Statistics

[https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Housing%20glossary%20\(5.4.8\)](https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Housing%20glossary%20(5.4.8))

What issues did renters face?

Rental stress⁴ is defined as spending over 30% of gross household income on rent. This threshold was well exceeded by the vast majority of renters assisted by RAHU:

- **91% of renters were in rental stress.**
- **The average percentage of income spent on rent was 67% across all cases.**
- **Across the 57 cases where the amount of rent charged was recorded, the average monthly rent per person was \$1,163.45.**
- **Single income Jobseeker recipients not receiving the COVID-19 Supplement spent 96.21% of their income on rent.**
- **Single income Jobseeker recipients receiving the COVID-19 Supplement before September 2020 spent 68% of income on rent.**
- **Disability Support Pension recipients paid 52% of their income on rent.**
- **In some specific cases, renters who had previously taken Centrelink advance payments were left paying 68% of their remaining Pension in rent.**

Notably, renters experienced rental stress even when Jobseeker payments were nearly doubled due to the introduction of the COVID-19 Supplement. With JobSeeker payments now at pre-pandemic rates, rental prices are once again desperately unaffordable for those in receipt of unemployment benefits.

Out of a sample of 23 RAHU members receiving reduced JobSeeker payments, only 2 paid less than 30% of their income on rent. **Both lived in large sharehouses with four or more co-tenants.**



What issues did renters face?

Renters needed rent reductions, but often received deferrals

In March 2020 the Victorian State Government introduced a rent reduction scheme as part of its COVID-19 response. This scheme was intended to assist landlords and renters to negotiate 'in good faith' to reduce rental payments due to the pandemic.

This scheme was extended three times to a total of 12 months, expiring on March 29 2021 with limited exceptions - under narrowed circumstances rent reduction agreements could be extended until June 19th 2021.⁵

Rent deferral agreements were permitted under the scheme, allowing for a portion of rents to be repaid at a later date. The option to defer rental payments could cause renters to enter into significant debt. In other words, deferrals did not relieve the financial burden of rent, but simply moved it to a later date.

The majority of RAHU cases involved rent reduction claims, and a significant number of initial claims involved rental debt deferrals. The number of rent reduction claims appeared to spike around the time the COVID-19 Moratorium Legislation was extended - most notably in July and September.

51 of 84 (59%) cases involved rent reduction claims of which:

- 5 (29.5%) were originally coerced deferrals
- 11 (21.5%) were protracted further by landlords and agents through VCAT, either resolved or currently unresolved at time of writing.

\$33,208.20 of rent was reduced through negotiation by RAHU.

July was the largest month of requests with 13 cases in 20 days, representing 16.67% total claims for the year.

The high proportion of rent reduction claims in RAHU casework corresponds with statewide trends. In Victoria, nearly 39,200 new agreements lodged from April - September 2020⁶, with their average length spanning 3 months. The scheme resulted in average rent reductions of 26%.

However, data specifying the degree to which rents were deferred has been noticeably absent. The presence of a significant minority of RAHU cases involving rent deferrals suggests that the practice may have been relatively widespread, causing a significant accumulation of rental debt for many renters during the moratorium period.

⁵ Residential Tenancies Amendment Act 2018 Transitional Regulations 2021 (SR NO 20 OF 2021) http://www5.austlii.edu.au/au/legis/vic/num_reg/rttaa2018tr2021n20o2021824/

⁶ Questions on Notice: Mr Davis, (LNP) May 26th 2020 <http://qon.parliament.vic.gov.au/PARLIAMENT/general/qon/prod/qon.nsf/viewQuestion.xsp?action=openDocument&documentId=DA59D96CA5B87453CA25857400199268>

What issues did renters face?

Rental debt is a serious and potentially long-term issue.

As roughly one in four RAHU rent reduction cases involved deferrals, it seems plausible that the practice of deferring rental payments was widespread across Victoria, likely leading to a significant accumulation of rental debt.

For one, financial hardship stemming from accumulated rental debt and income loss may be compounded by rent increases that have occurred since the Moratorium was lifted. For example, regional housing markets have seen 25% rent increases in the last two quarters⁷.

Secondly, renters in rental arrears are at risk of being pursued for debts for 6 years when landlords are able to take their claims through the courts. This can damage the credit rating of the renter, adding to financial hardship and emotional stress.

The deficiencies of the Rental Reduction Scheme went beyond the issue of debt. The scheme lacked clear guidelines for establishing rent reduction agreements or proper mechanisms for regulatory oversight, leading Real Estate Agencies to engage in a number of dubious practices that impacted renters in a variety of ways.

These included:

Coercing renters into accepting rent deferrals - e.g. Real Estate Agencies issuing 'Financial Hardship' forms outlining compulsory deferral clauses.

Providing misleading reduction application forms containing unsolicited and unlicensed financial advice and deceptively 'requiring' excessive and personal information from renters.

New lease agreements with unmeetable deferred debt deadlines. Repayments were confined to a 2 to 6 week period following March 29 2021, even when rental debt exceeded \$20,000.

In some rare cases, renters in hardship were pursued by debt collection agencies.

⁷ <https://www.domain.com.au/news/regional-victoria-headed-for-rental-crisis-as-melburnians-flood-the-market-domain-report-1044920/>

⁸ RAHU: Renters 3 Month Review August 2020 <https://rahu.org.au/wp-content/uploads/2020/08/RAHU-Renters-3-Month-Review.pdf>

⁹ ibid pp. 7-10 <https://rahu.org.au/wp-content/uploads/2020/08/RAHU-Renters-3-Month-Review.pdf>

What issues did renters face?



Agent and Landlord Breaches

A number of instances of landlord and real estate agent harassment and unprofessional behaviour were recorded in RAHU case notes.

27 of 84 (32%) cases reported unprofessional behaviour by Real Estate Agents.

4 cases reported incidents involving a threat of violence perpetrated by the landlord.

In 3 out of 4 of these cases, the renter involved was a temporary visa holder.

In 3 cases, renters reported their Real Estate Agents falsified rental ledgers which were supplied as evidence at VCAT hearings.

It is an offence to evict renters without obtaining a warrant of possession to be carried out by the police. Landlords nonetheless used intimidation and threats to coerce renters into terminating their tenancy.

In cases involving renters on temporary visas, renters feared that a failure to comply with their landlord's demand to vacate would endanger their visa status.

In the last year, security companies have been found carrying out evictions of renters in Victoria whilst carrying lethal weaponry including handguns.

Real Estate Agent Breaches

Case notes report multiple examples of real estate agents engaging in unprofessional behaviour:

Repeatedly visiting the rental property without giving proper notice, including during COVID19 Stage 4 Restrictions

Repeated calls during times when renters had specified they were unavailable due to work commitments.

Daily and sometimes hourly emails and text messages notifying renters of unpaid rent - in one case concerning only \$0.80 of arrears.

Issuing renters multiple requests for open inspections during COVID19 Stage 3 and 4 restrictions

Agents ignoring renters' requests to communicate through formal channels (e.g contacting the tenant over Facebook, despite being told to communicate over email).

RAHU casework saw the privacy of renters being routinely violated. Under the Residential Tenancies Act (1997) it is an offence to enter rental properties without giving proper notice and providing a reason.

CASE STUDY: Genevieve



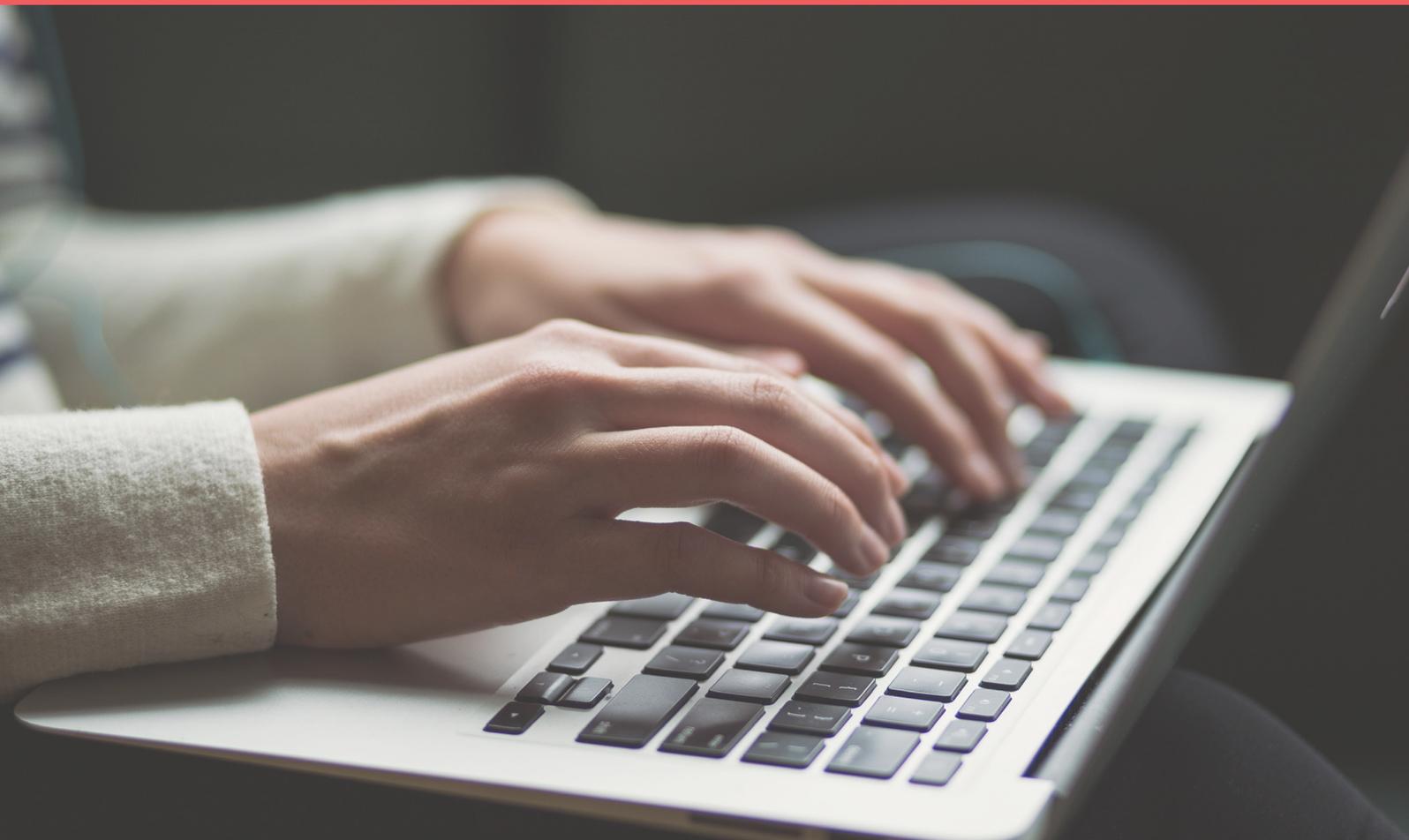
Genevieve and her housemates decided to rent a house together. When they first inspected the house it appeared to be occupied. The agent told them that the house would be cleaned and remaining belongings removed prior to the start of their tenancy.

When Genevieve and her housemates returned to the property after signing the agreement, paying their deposit and receiving the keys, the property was in a state of disrepair. The house had not been cleaned to any extent (mouldy food was found in kitchen appliances); several dangerous electrical faults were present; and several of the landlord's possessions were still in the house and shed.

The incoming renters reported these problems to the Real Estate Agent. In response, the Agent suggested delaying the commencement of their lease, and requested that the house keys be returned to complete cleaning and further repairs.

The renters decided to abandon the lease, as they were unable to delay the move from their current residences. Following this, the agent refused to return the bond payments and the first month's rent (totalling nearly \$6000), which had been paid before the start of their lease.

RAHU was able to assist Genevieve and her friends by facilitating the return of this money.



What issues did renters face?

Landlord Breaches

There were 4 cases in which renters were subjected to physical violence or threatened with violence by their landlords.

Case notes show landlords engaging in a variety of aggressive behaviours including:

Verbal aggression

Intimidating behaviour - such as entering the house without permission with people unknown to the tenant.

Physical threats

Physical assault

Attempting to restrict the renter's movement while in the property

Evictions

The process of eviction usually begins with the landlord or agent sending a Notice To Vacate (NTV) outlining the specific reasons (grounds) for termination. If the NTV is challenged by the renter, a Termination Application must be made to VCAT by the landlord. A Termination Application can also be made without an NTV being issued. If VCAT decides in favour of the landlord, a termination and possession order is granted.

The COVID-19 Rental legislation (effective March 21 2020 - March 29 2021) included a series of changes to the process of evicting tenants:

- All NTVs were considered void.
- All eviction proceedings were to commence through an application to VCAT.
- Grounds for eviction were limited to renovation, property sale, the landlord or their family moving in and failure to pay rent without a COVID-19 reason.

CASE STUDY: Sherub, Footscray



Sherub had a private rental arrangement with her landlord that was later examined and found to be legally unenforceable. She was unaware of this at the time of signing her tenancy agreement, being unaware of her rights as a renter.

Sherub was subjected to regular harassment by her landlord. This harassment culminated in the landlord arriving at the property unannounced and physically threatening her. Her subsequent application for an intervention order (IVO) is ongoing (after 3 months).

When Sherub contacted RAHU, the union assisted her by having another person present when she felt threatened by her landlord. This was only temporarily effective, as the landlord soon continued to physically threaten and harass her. For example, the landlord attempted to provoke Sherub by switching her electricity on and off at the meter; threatened to hit her, and directly pushed her. The police did not take statements upon being called out to Sherub's house.

The union is providing ongoing assistance to Sherub by:

- **Assisting with expediting her IVO**
- **Ensuring that a person is present at property in the event of the landlord returning, and to allow her to exit the property safely**
- **Issuing a complaint to CAV requesting compensation and a bond refund**

Notices To Vacate

Although NTVs were void while the moratorium was in place, RAHU casework data shows that renters were still being issued illegal NTVs throughout this period.

16 of 84 (19%) cases were sent NTVs. Of these:

13 were sent an illegal (void) NTV during the COVID19 Moratorium.

3 were sent repeated Notices To Vacate

Only 3 Notices To Vacate were sent legally.

All occurred after March 29th 2021 with the given reason of either "sale" or "renovation".

2 of 16 cases involving NTVs were sent informal eviction notices via text message or notes left on the property.

RAHU casework additionally revealed a significant number of renters to be self-evicting by terminating their tenancy prior to any formal proceeding.

CASE STUDY: Sam



Sam's landlord had never lodged his bond with the Residential Tenancies Bond Authority (RTBA). The landlord made no effort to arrange a written lease agreement. The landlord used one room in the rental property to run their private business, with customers coming and going. This was a breach of Sam's right to peaceful and quiet enjoyment.

When Sam lost work due to COVID, he was not eligible for any government support and fell behind on rent. Sam's landlord began entering the living areas of the rental property without permission, leaving notes requesting that Sam pay rent or leave. This was despite there being a ban on notices to vacate at that time. As soon as the ban was lifted, the landlord sent Sam a third void (unlawful) notice to vacate, followed by an informal (unlawful) rent increase.

RAHU was able to assist Sam to understand his right to a tenancy agreement, registered bond and remain in the property. At time of writing, the Support Team is assisting Sam in finding alternative accommodation, making a claim for their bond and reporting complaints to the relevant regulators.

VCAT Applications for Termination

The moratorium made it harder to evict tenants. Nonetheless, RAHU casework data shows that a number of termination applications were made before the moratorium ended.

25 of 84 (30%) of cases involved applications by landlords for tenancy termination at VCAT.

21 of 25 (84%) of these cases were initiated before the eviction moratorium was set to expire on March 29 2021.

The 4 remaining cases were sent a Notice To Vacate within the first two weeks of the Moratorium ending.

12 cases concerned eviction on the grounds of "renovation" or "sale"

All involved renters in significant hardship who had applied for rent reductions.

Renters could still face termination of tenancy for rental arrears if they were unable to prove their hardship was due to COVID19. In practice, there was a higher burden of proof on renters to prove hardship due to COVID-19 than that of landlords.

18.

What issues did renters face?

What issues did renters face?

Termination Applications due to sale and renovation

In some cases where a Termination Application was made to VCAT for sale of the property, a significant proportion of landlords are re-letting the property at a higher rate; in breach of RTA Provisions¹⁰ that states the landlord must not re-let the property for six months.

RAHU has also observed an increase in termination notices by landlords for reasons that were allowed in moratorium legislation¹¹ that may be fraudulent.

VCAT Decisions in cases of COVID19 Rental Debt

COVID-19 Rental debts of \$2,000-\$20,000+ cannot be met by renters in severe hardship, nor are they collectable in judgment proof cases¹². Yet payment plan terms are being decided by VCAT that cannot be met and see renters in COVID-19 hardship face eviction.

Reductions

including:

- reduction negotiations
- lease extension
- new agreement
- extension

Notices to Vacate

including:

- Illegal termination notice
- Renovation
- Landlord moving in
- Sale
- Vacant possession

Terminations

including:

- Sale
- Landlord moving in
- Damages
- Failure to pay rent (section 548)
- Possession order

Types of Cases Handled by the Renters Rights Support Team

The Renters Rights Support Team handled cases whereby the landlord had applied to VCAT for a Lease Termination. These cases were appearing before VCAT with the following grounds, that were allowable under the COVID19 moratorium.

¹⁰. ie. SECT 91ZW, RTA 1997; http://www5.austlii.edu.au/au/legis/vic/consol_act/rta1997207/s91zzh.html

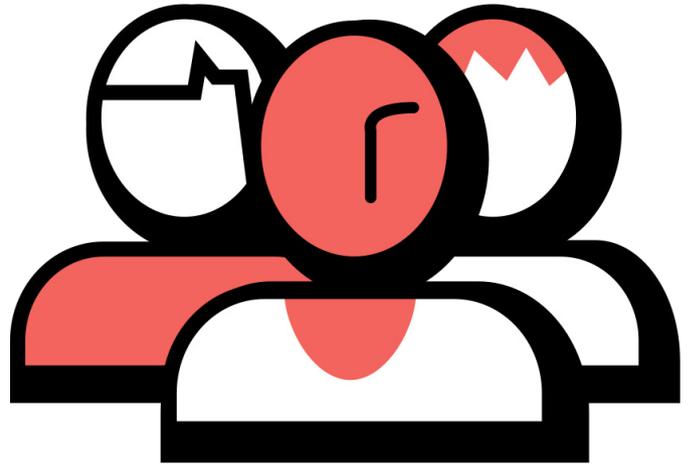
¹¹. ie. Section 417, 418, 419 of the Residential Tenancies Act (1997) http://www5.austlii.edu.au/au/legis/vic/consol_act/rta1997207/s417.html

¹² <https://rahu.org.au/bleeding-people-dry-the-need-to-cancel-debt/>

What issues did renters face?

**Post - Eviction Moratorium:
COVID-19 restrictions potentially
triggering new '4 Strike' eviction process**

Renters who have lost employment due to the recent June 2021 circuit breaker restrictions are now at threat of 'first strike' in the amended Residential Tenancies Act of failure to meet rental payments. If currently in previous arrears, renters may face Notices To Vacate from June 17th (14 days from commencement of Stage 4 Restrictions).



CASE STUDY: Martina & Eros



Martina and Eros are hospitality workers on temporary visas. Both lost all income due to COVID19, and attempted to secure a rent reduction. After this request was denied, they were pressured into agreeing to a deferral.

Martina and Eros contacted RAHU in September 2020 after receiving a VCAT termination order due to sale. They were required to vacate the property before November 26, 2020.

By November 30, it was advertised as a rental property online and through a billboard erected at the front of the property . A "leased" sticker was attached to a billboard advertisement in January 2021.

This represents a serious breach of the landlord's duties under the RTA and caused significant financial loss to the renters.

RAHU assisted Martina & Eros in defending \$8,000 of rental debt. RAHU continues to support Martina & Eros in pursuing a compensation claim at VCAT.

Summary and discussion of findings

Data drawn from RAHU casework gave a rich account of the issues facing renters in Victoria during the course of the COVID-19 pandemic.

The findings above show that those who sought RAHU's assistance were overwhelmingly low-income renters facing severe rental stress.

The majority of renters in RAHU casework were either a) dependent on government income support payments, such as Jobseeker, JobKeeper and disability support; or b) ineligible for income support due to being Temporary Visa Holders.

Even when Jobseeker payments were doubled via the COVID-19 supplement, the average proportion of income spent on rent was double that of the threshold for rental stress.

Cases involving claims stemming from financial hardship were ubiquitous in RAHU casework.

The majority of cases involved rent reduction claims. Casework data shows renters accumulating significant rental debt due to rent payments being deferred rather than actually reduced. Accumulated rental debt risks higher rates of eviction, especially with the removal and/or reduction of key income support payments.

Casework findings show landlords and agents initiating eviction proceedings, despite rental regulations heavily circumscribing grounds for legal eviction.

Although the grounds for eviction due to rental arrears were significantly restricted, the majority of renters facing eviction for "sale" and "renovation" were experiencing financial hardship. Moreover, Notices to Vacate were issued illegally prior to the moratorium ending, despite being banned. In other words, the legislation was insufficient to prevent the eviction of renters in financial hardship.

Lastly, RAHU casework also found real estate agents and landlords regularly breaching ordinary provisions of the Residential Tenancies Act (1997) intended to prevent harassment and unprofessional behaviour.

Overall, casework findings show rental regulations introduced in the wake of COVID-19 to be inadequate to prevent financial hardship, eviction and various landlord abuses.

Roofs For Ransom

COVID-19 Rental Survey findings



In mid-January 2021, RAHU distributed an online survey to collect information about renters' experiences during COVID-19. Data was collected from 132 respondents over the course of 3 months from January 15 to March 15 2021.

The survey contained 19 closed and open ended questions that sought basic demographic information along with more detail about the experience of renters during the pandemic.

78% (103) of respondents lived in Victoria. 13 came from NSW, 9 from QLD, 3 from WA and 2 from ACT.

Survey results:

- 48% of respondents were in debt of some kind (excluding HECS debt).
- 41.6% of respondents answered that rent related stress had affected their wellbeing.
- 7.6% of respondents reported to have experienced mental health issues as a result of rent related stress.
- 26% of respondents reported having to move out due to rental stress
- 34% of respondents stated that they had struggled to buy food.
- 37% answered that they struggled to pay for healthcare costs including medication.
- Others described struggling with energy and internet bills.
- 6% of respondents could not access Jobseeker and Jobkeeper because they were ineligible. This may be because 7.5% of the respondents were not Australian citizens, and therefore excluded from income support payments.
- Respondents stated that their mental health had suffered due to stress related to food shortages, inability to access health care and pressure to make rent.



Roofs For Ransom Continued

The current health crisis has highlighted years of inadequate government policy, planning and investment responding to the dire need for affordable and cost controlled housing. The health impacts caused by a lack of affordable housing remain mostly unacknowledged.

Health is linked to wealth. Economic security provides essentials such as food, shelter and adequate health care. In turn, there are fewer triggers for mental health problems. The real costs of paying rent are the sacrifices renters are forced to make to be able to afford shelter.

RAHU rental survey results indicate that private renters are having to choose between the cost of shelter and other essential needs such as food and healthcare. This mirrors the findings of a recent AHURI survey of 16,000 Australian renters during COVID-19, in which 40% of respondents reported being unable to afford food, bills, clothing and/or transport after rent¹⁴.

Rental debt, fear of eviction, inadequate access to healthcare and food insecurity put strain on mental health by causing stress and anxiety. In addition to this, underfunded mental health services are unable to provide much needed support due to the underlying causes of this systemic issue.

The physical and mental health impacts of rental insecurity must be weighed against the benefits to landlords, big banks and property developers of an overpriced housing market capable of generating enormous profit.



¹⁴ Baker, E., Bentley, R., Beer, A. and Daniel, L. (2020) Renting in the time of COVID-19: understanding the impacts, AHURI Final Report No. 340, Australian Housing and Urban Research Institute Limited, Melbourne.

VCAT findings



The RAHU research team reviewed VCAT residential tenancies trial decisions published by the Australasian Legal Information Institute (AustLII). 155 relevant cases were published on AustLII between January 1 2019 and December 31 2020. They were categorised according to the type and outcome of each case along with any reasons given for the ruling.

From 2019 - 2020, 65 out of 155 relevant AustLII cases involved the termination of a tenancy, placing renters at risk of eviction and displacement. Half of these cases (33 out of 65) resulted in a possession and/or termination order.

Figure X below shows a shift in reasons for VCAT AustLII trials involving termination from 2019 to 2020, possibly reflecting the narrowed grounds for eviction set out in March 29 moratorium legislation. The number of terminations due to arrears halved between 2019 and 2020, while those occurring due to sale or occupation skyrocketed. Though based on a small and potentially selective sample (case details are published on

AustLII at the discretion of VCAT magistrates), these findings may suggest that the practice of terminating tenancies persisted throughout the moratorium period, albeit within the legal parameters set out in the March 29 rental legislation.

Supporting this, VCAT annual report data records 4,680 residential tenancies applications occurring during the first 3 months of the COVID-19 Moratorium - the majority of which were termination and possession applications¹⁵. A March 2021 report in The Age shows the number of eviction applications per month increasing from 684 in October 2020 to 1072 in February 2021¹⁶.

VCAT hearings are only the final stage of an eviction process that a tenant may choose to abort long before any formal proceeding takes place. In other words, many renters choose to self-evict. Given that tenant attendance at VCAT trials stood at just 20% in 2014-15, it is probable that a large number of renters might still choose to leave preemptively rather than face eviction proceedings.

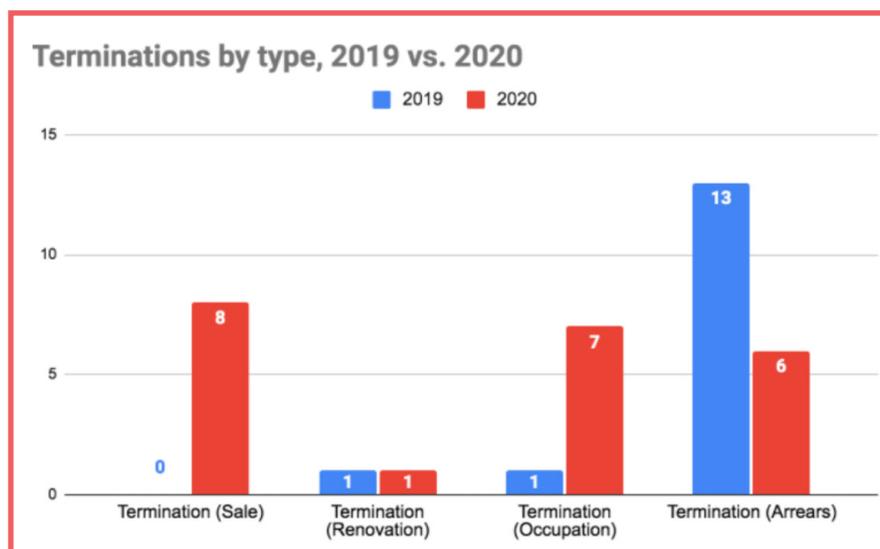


Figure X

¹⁵ VCAT Annual Report 2019-2020 p. 72 <https://www.vcat.vic.gov.au/about-vcat/annual-reports-and-strategic-plan>

¹⁶ The Age, Clay Lucas 18 March 2021 <https://www.theage.com.au/politics/victoria/how-am-i-going-to-pay-this-wave-of-evictions-com-ing-as-moratorium-ends-20210318-p57bw6.html>

Recommendations

As we move out of the pandemic, measures to alleviate the rental debt and hardship faced by renters will be paramount to housing security. The regulation of consumer rights in residential housing is urgently required to meet adequate living standards; provide financial relief from impossible debt; and keep renters in their homes. Application of these regulations will ensure best practises in a foundational aspect of our everyday lives.

These recommendations are focused on the relevant areas of legislation in residential housing; and the real estate industry.

Financial Hardship & Rental Debt

Unenforceable Debts arising from COVID19

- Restrict the enforcement of evictions and debt collections via VCAT or Victorian Courts for any debt arising due to COVID-19.
- Forgive any debt arising between 21st March 2020 - 29th June 2021 due to COVID-19 and any period of Stage 4 Restrictions.
- Introduce a cap on rental debt payments to no more than the Rental Bond.

Termination and Eviction

Determination of Termination or Possession due to COVID19 Rental Arrears

1. All VCAT Orders that are unenforceable in relation to rental arrears due to COVID-19 hardship or severe hardship must be dismissed i.e.
 - a. In cases where any or all parties in tenancy agreement are in hardship or of low income.
 - b. In cases where rental debt exceeds \$10,000.

25.

2. Termination applications due rental arrears, or otherwise involving renters experiencing severe financial hardship, should be dismissed by VCAT.

Deferred Rent Agreements dismissed as unfair terms of contract

3. All deferred rent accrued through agreements made through dispute resolution or any type of rent reduction agreement to be determined by VCAT as dismissed based on unfair terms of contract and misconstrual of legislated rent reduction scheme.
4. For the Victorian Government to initiate a mechanism through existing VCAT and Consumer Affairs Victoria to waive rental debts accrued due to financial hardship during the COVID19 Moratorium period and any period of Stage 4 Restrictions due to parties unable to comply due to forces outside of their control.
5. All Notices To Vacate and applications to VCAT related to Failure to pay rent (RTA S.548ii) concerning rent arrears during any period of Stage 4 Restrictions are to be considered void.

Reasonable and Proportionate

6. VCAT must determine that it's not reasonable and proportionate to terminate the tenancy or make a possession order if satisfied that the renter can continue making standard rental payments (comply with the lease agreement) on an ongoing basis.
 - a. In cases of severe hardship VCAT must determine that it is not reasonable and proportionate to terminate the tenancy.

VCAT Determination of Payment Plans

7. Whereby a renter can make at least \$5 at minimum per month in payment plan of rental arrears on top of standard rental payment then the tenancy agreement must be able to remain.
8. In cases of renters in severe hardship or significant rental stress; for VCAT to determine a payment plan for rental debt to be limited to a maximum of \$5 per month and the tenancy to remain.

Recommendations

Real Estate Agent Breaches

Consumer Practises & Licensing

- A public inquiry conducted by the Australian Securities and Investments Commission into the Real Estate Industry regarding unsolicited financial advice; unfair terms of contract and deceptive and misleading conduct.
- The Australian Consumer and Competition Commission to conduct a public audit and inquiry into the consumer practises of Real Estate Agencies including but not limited to:
 - Rent bidding
 - Price fixing and Residential Rental Listing advertisement
- The Privacy Commission to conduct a public inquiry into the methods of collection, use and storage of personal and private information obtained through Tenancy Applications as administered by the Real Estate Industry.

Breaches to Residential Tenancies Act

- The Department of Consumer Affairs to conduct a broad based audit on all VCAT Decisions and resulting Orders resulting in breaches to the Residential Tenancies Act.
 - Resultant penalties to be applied through the Australian Taxation Office.
- For the Australian Taxation Office to administer a penalty to all companies and agents who have been found to have breached their obligations under the Act.

Housing Insecurity

Private Tenancies

- Legislate for rent increases to be made only in relation to the Australian Wage Index.
- To establish a legislative framework that regulates the Rental Price Index to a maximum

threshold in new listings as limited by the total Consumer Price Index.

- Victorian Government to administrate a compulsory proportion of private rental properties as being no more than 25% of all base rate income support payments including Disability Support Pension and Jobseeker payment. That this proportion is reflective of state-wide total income support recipients and reviewed each year.
- The adoption of legislation to allow for temporary or long-term new lease agreements to allow for contractual rent reductions for renters experiencing rental stress or suffering financial hardship.

Community and Public Housing Tenancies

- The adoption of legislation for Community Housing rents to be capped at no more than 25% of household income, in line with rents in public housing.
- The Victorian Department of Treasury to commit a minimum of 85% of the \$5.3bn Big Housing Build expenditure on exclusive development of new public housing stock.
- The Victorian Government to publicly commit to a 10 year Public Housing plan exclusively for the maintenance and development of new public housing stock with targets which reflect the scale of need.
- Declare a moratorium on the sale of Public housing land for private development and the practice of transferring Public Housing management to Community Housing providers.
- Instate a State requirement for equivalent expenditure for new developments of Public Housing with any new expenditure in Community housing new development contracts.

Appendix: Methology

Case Studies:

In some case studies names have been changed at the request of the renter.

This report draws from evidence compiled in three datasets.

1. RAHU Renters Rights Support Team Advocacy case work files and aggregated data.

RAHU provides rental advice and advocacy to members on a case basis. These case files were used as a de-identified aggregated dataset, with permission given from the individual where particularities of a case are used in this report. A total of 86 cases were included, 52 of these cases being RAHU members, 33 being non-members. Each case is opened upon contact to our Renters Rights Support Team via email, and assigned a caseworker, communicating via phone and email on an average weekly or fortnightly basis. The case data is stored in a closed database only viewable by the 12 members of the Support Team and Secretary of the Union.

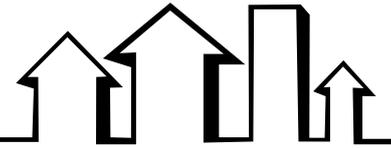
All cases are case noted by the relevant Renters Rights Support Team member ie. caseworker. This data is casenoted in categories including income, claim type, summary notes, specific issues.

2. Roofs For Ransom COVID19 Rental Survey - collected and analysed by RAHU

In January 2021, RAHU designed and distributed an online survey to RAHU members and through social media to collect information about renters' experiences during COVID19. The survey was available for three months, (January 15th - March 15th 2021) and 132 people responded.

The survey was made up of 19 closed and open questions that sought basic demographic details, information about rental experience, debt and further comments about related experiences. The results were analysed to describe trends, patterns and relationships between debt, rental arrears, housing and financial stress, and job loss.

Appendix: Methodology



3. VCAT Applications for Terminations Residential Tenancies Listings data

VCAT Eviction Applications 2019 vs. 2020 data

RAHU collated time series data from the publicly listed Victorian Civil and Administrative Tribunal (VCAT) of the number of applications and decisions for both years 2019 & 2020 on the Residential Tenancies listings database¹⁷. This data is organised in categories including: type of application, type of applicant, and tenancy type. This data was analysed for time series trends in 2019 & 2020 comparatively.

These published cases were given categorisations according to the type of dispute, the type of applicant, the outcome and in some cases the reasons given in decisions. This included all cases published for the given years, excluding any that did not directly pertain to a dispute between a renter and a landlord (for example, a case brought against a council by a property developer would not be deemed within the scope of this report and therefore not categorized.)

A total of 155 relevant cases were published on Austlii between January 1, 2019 and December 31, 2020, with a roughly even split between 2019 (76 cases published) and 2020 (79 cases published.)

17. Victorian Civil and Administrative Tribunal Residential Tenancies Listings 1998 - http://www8.austlii.edu.au/cgi-bin/sinosrch.cgi?method=auto;meta=%2Fau;query=%22residential%20tenancies%20list%22;results=20;rank=on;callback=on;mask_path=au%2Fcas-es%2Fvic%2FVCAT;view=date;submit=Search;sfield=full

Glossary

Rental Stress

The Australian Bureau of Statistics (ABS) defines a renter to be in rental stress when 30% or more of their income is being paid to rent each month. A renter household is in rental stress with its housing costs (excluding Commonwealth Rental Assistance) are more than 30% of the gross household income (excluding Commonwealth Rental Assistance)¹⁸.

Self Eviction

Renters can face pressure to move out or 'self-evict' due to socio-economic factors; mental stress and exhaustion due to rental stress; co-tenant and lateral residential stress; risk of or experience of family or domestic violence; and coercion and harassment by landlords and real estate agents. To escape this pressure and harassment, renters often choose under these constrained pressures to 'voluntarily' leave their homes when they don't want to.

Judgment Proof

The law in Victoria states that there is a category of persons against whom orders for payment of debt are not able to be enforced for a variety of reasons, i.e. these people are considered "judgment proof". Section 12 of the Judgment Debt and Recovery Act 1984 (Vic) states that a Court will not allow a debt to be collected from a person whose only income is a pension, or some other social security payment¹⁹.

A person may also be judgment proof if they have no significant assets, a car worth more than \$8k, and they have no significant savings. It also potentially includes People who are bankrupt, people whose debt is "statute barred" – meaning it is too old to be collected.

If someone is judgment proof, you cannot be expected to pay your debts, even if they technically exist according to the law.²⁰ - *Bleeding People Dry: The need to Cancel Debt - RAHU 2021*

Is the client judgment proof? Homelessness Law Centre
Reasons you might not have to pay - Victoria Legal Aid

Homelessness

A peer-led definition of homelessness 'Being homeless means not having a stable or safe place to live. Homelessness can include: couch surfing; sleeping outside; living or sleeping in a car; staying in a shelter, hostel or refuge; living in an abandoned house or building; staying in overcrowded housing; living in temporary accommodation'

Private Lives 3 A national survey of the health and wellbeing of LGBTIQ people in Australia

¹⁸ Australian Bureau of Statistics Housing Glossary: [https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Housing%20glossary%20\(5.4.8\)](https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Housing%20glossary%20(5.4.8))

¹⁹ No instalment order if judgment debtor is pensioner etc. see *Judgment Debt Recovery Act 1984* (Vic) s 12

²⁰ Adam O. Hill, Adam Bourne, Ruth McNair, Marina Carman and Anthony Lyons 2020 <https://www.latrobe.edu.au/arcshs/publications/private-lives/private-lives-3> (p. 33)