

COVID rent rules tilted too far in tenants' favour, landlords say

ROBERT GOTTLIEBSEN

Follow @BGottliebSEN



By **ROBERT GOTTLIEBSEN**, BUSINESS COLUMNIST

8:12AM OCTOBER 16, 2020 • 171 COMMENTS

Across Australia the so-called “villains” in the COVID-19 pandemic have been the landlords owning small shops and commercial premises. But those “villains” are usually salt of the earth mum and dad Australians who suddenly find themselves the victims of combined blows from state and federal governments, as well as tenants. Their losses have been staggering.

Leaving aside the giant shopping malls, more than three quarters of a million Mum and Dad Australians own a strip shop or small commercial premise. They usually own only one and its often their retirement income.

They have been punished because tenants have banded together in almost every state to inflict misery on those owning shops in strip centres. Whether it be Parramatta Road in Sydney, Chapel Street in Melbourne or the equivalent in strip centres around the country, governments have imposed tough rules on small landlords.

In the good times those heavily dependent on the shop for income were reluctant to invest further funds or lower rents, increasing the antagonism of tenants and compounding the tenant pressure on governments as the pandemic hit enterprises.

There have been state-based tenant organisations in some areas but often they are linked to the big shopping malls. The strip centres were rarely at the government conference table. The good news for mum and dad landlords is that finally an organisation has been formed to represent them: The Australian Landlords Association.

And they need help because state and federal governments have combined to devastate the owners of shops in strip centres.

Their tenants are often cafes, restaurants, hairdressers and other enterprises which have been devastated by the pandemic. To keep them alive the federal government moved in with JobKeeper payments, allowed tenants to trade while insolvent and prevented anyone from bankrupting them until March 28.

State rent rules

Then state governments moved in on the rent side. Each state was different but not surprisingly Victoria was the most ruthless on the landlords. But when the federal actions are combined there is effectively not much final outcome difference between the states. Landlord Association President Andrew Kent tells me that every state has a collection moratorium, with most preventing action to collect rents until the end of December or the start of January.

WA extends the moratorium until the end of March and South Australia to February 6. The ACT and Northern Territory end their moratoriums towards the end of October.

New & improved business newsletter. Get the edge with AM and PM briefings, plus breaking news alerts in your inbox.

[Sign up](#)

But irrespective those dates, without the power of bankruptcy, effectively small landlords in many instances will have to wait until March 28 to discover whether their tenant can pay.

Kent says that some landlords already have tenants that are six months in arrears and that given the bankruptcy moratorium many landlords could have provided unpaid tenancy in good faith for up to 12 months.

And come April 2021 countless thousands of landlords will discover whether their tenant is a zombie company that will go broke with no chance of collecting any debt.

Meanwhile landlord expenses are relatively unchanged. While banks have postponed interest payments, they have not cancelled them, so the costs still must be paid including land taxes that have been increased substantially in most states.

Adding to the savage loss income the landlords are watching the market value of their properties slump.

'Reasonable' rent

NSW, Queensland, WA and South Australia have "reasonable" rent negotiations provision. The NSW negotiation is triggered when there has been a 25 per cent income reduction.

But Victoria goes over the top. The landlord's offer for rent relief must be, at a minimum, proportional to the decline in the tenant's turnover associated with the premises. There is no longer a requirement for the landlord's offer to take into account the landlord's ability to offer rent relief.

In simple terms if the tenants turnover falls to nil there is no rent payable and JobKeeper income is not allowed to be included. An eligible lease cannot be terminated for failure to pay rent or outgoings where a request for rent relief has been made in accordance with the regulations. And so it goes on.

Victorian landlords are furious. Kent says: "We think that by disregarding the landlords ability to provide rent relief those responsible for this legislation have demonstrated 'reckless indifference' to the consequences of this legislation and is so doing have committed misfeasance in public office, and we are current investigated legal avenues to pursue this on behalf of all Victorian landlords."

Meanwhile, while vast areas of society are being helped the mum and dad landlords are the forgotten people.

ROBERT GOTTLIEBSEN, BUSINESS COLUMNIST

Robert GottliebSEN has spent more than 50 years writing and commentating about business and investment in Australia. He has won the Walkley award and Australian Journalist of the Year award. He has a place in t... [Read more](#)



More stories on this topic

- [Property poised for rebound](#)
- [Yes, prices are up, but for how long?](#)
- [Where there's a will, there's a \\$40m legacy](#)

Topics

[Property Prices](#) / [Coronavirus](#)

{"success":false,"message":"Widget not found"}