

# Tenancy and social housing

The following information explains how to apply to the NSW Civil and Administrative Tribunal (NCAT) to resolve a tenancy dispute.

## About NCAT

The NSW Civil and Administrative Tribunal (NCAT) is an independent, specialised and accessible service for the fair and timely resolution of disputes according to law.

## Applying to NCAT

The easiest way to apply to NCAT for orders under the *Residential Tenancies Act 2010* is to apply online. To make an online application, visit [online.ncat.nsw.gov.au](https://online.ncat.nsw.gov.au).

You can also download and complete a tenancy, social housing, termination and possession or rental bond form. Lodge the form in person or by post with the appropriate fee. Visit the NCAT website for the current fees and charges.

When you apply you will need to specify the section of the *Residential Tenancies Act 2010* and the orders you want NCAT to make.

See the types of orders NCAT can make in this fact sheet. You can apply for more than one order.

## Definitions

You should refer to the *Residential Tenancies Act 2010* for key definitions including what tenant, landlord, residential tenancy agreement, social housing provider and social housing agreement means.

## Time limits

Applications to NCAT must be made within a specific time.

Tenancy and social housing applications must be made to NCAT within the time period specified in the *Residential Tenancies Act 2010* or the Residential Tenancies Regulation 2019. Under rule 23 of the Civil and Administrative Tribunal Rules 2014 if no time period is specified applications must be made

within 28 days from the day the applicant became entitled to make the application unless NCAT grants an extension of time under section 41 of the *Civil and Administrative Tribunal Act 2013*.

## Urgent hearings

NCAT aims to list most tenancy applications within 4-6 weeks. An urgent hearing may be held if there is a threat to personal safety or to property, or where there is significant hardship.

To apply for an urgent hearing you must provide evidence to NCAT proving that an urgent hearing is needed. If NCAT agrees to the urgent hearing, the matter will be listed within 7 days.

## What happens next?

After applying to NCAT, your matter will be listed for conciliation and hearing. If your matter is not resolved at the first listing it may be adjourned to another date for formal hearing.

You and the other party will receive a notice of listing from NCAT specifying the day, time and venue of your hearing. The first listing will usually be within 4-6 weeks.

A copy of your application and any attached documents will be given to the other party. Do not include any confidential information you do not want given to the other party.

## Conciliation and hearing

Matters listed for conciliation and hearing are heard within a number of other matters in a 'group list'. Parties will be asked to attempt to reach an agreement (conciliation) before the hearing can take place. Visit the NCAT website to learn more about [conciliation](#).



## Evidence and supporting materials

At the hearing you will need to provide evidence to support your case. The type of information and documents you need to provide will depend on the orders sought.

Your evidence and supporting materials may include:

- Residential tenancy agreement (lease)
- Rent receipts and/or rent records (ledger) including payments made and current rent
- Bond information
- Ingoing and/or outgoing condition reports
- Termination notice details
- Copies of all correspondence between parties
- Details of goods and monetary value
- New tenants checklist (information statement)
- Repayment plans where you have negotiated a repayment arrangement to clear the unpaid rent or bond
- Photographs showing the condition and state of repair of the rent premises (or of other comparable premises if relevant)
- Copies of any quotes, accounts or receipts for work carried out or to be carried out on the premises.
- Statements, statutory declarations or affidavits from witnesses or other interested persons.
- Authority to act if you are being represented.

You must comply with any orders the Tribunal makes to provide evidence to the other party and the Tribunal prior to the hearing.

## Can someone represent me?

NCAT Consumer and Commercial Division hearings are conducted as informally as possible. Parties are encouraged to present their own case.

For more information about representation see the [Consumer and Commercial Division Guideline Representation](#).

## For information and assistance

### LawAccess NSW

**Phone:** 1300 888 529

**Website:** [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

For free legal information and referrals to other services that provide legal advice and assistance.

### NSW Fair Trading

**Phone:** 13 32 20

**Website:** [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

For information **before** lodging the application.

### Tenants Advice and Advocacy Services

**Phone:** 8117 3700

**Website:** [www.tenants.org.au](http://www.tenants.org.au)

For assistance and advocacy to all tenants, particularly social housing tenants or the vulnerable.

### NCAT Consumer and Commercial Division

**Phone:** 1300 006 228

**Website:** [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)

For information and assistance about processes or procedures **after** lodging the application.

## ORDERS under the *Residential Tenancies Act 2010*

You can apply to NCAT for orders under the *Residential Tenancies Act 2010*. The orders below are a guide only. Refer to the relevant sections of the Act for more detailed information.

For interpretation or assistance on how the legislation applies to your circumstances you should get legal advice. Visit the NCAT website to learn more about where to [get legal help and advice](#).

### Abandonment of residential premises

Section	Orders	Who can apply	Information required
106	An order that the premises have been abandoned by the tenant on a specified date	Landlord	Explain why you think the premises have been abandoned. Specify the abandonment date.
107	An order for the tenant to pay compensation for any loss caused by the abandonment of the residential premises	Landlord	Provide details of your loss caused by the tenant's abandonment of the premises. Outline the steps you have taken to minimise your loss.

### Access to premises

Section	Orders	Who can apply	Information required
60	An order to allow the landlord or some other person to enter the residential premises	Landlord	Explain why this order is necessary and the dates and times when you require access.
61(1)	An order specifying or limited the days and times, and purposes for which, entry to the residential premises by a landlord or other person is authorised	Tenant	List the days and times when you propose to give access to the landlord or other person.
61(2)	An order that the landlord or landlord's agent pay compensation to the tenant for damage to or loss of the tenant's goods caused by the landlord or landlord's agent while accessing the premises	Tenant	List the goods that were damaged or lost while the landlord or agent accessed the premises. Provide details of the monetary amount you are claiming.

### Change of tenants

Section	Orders	Who can apply	Information required
75(5)	An order that the tenant may transfer a tenancy or sub-let the residential premises	Tenant	Explain why this order is necessary and provide details of how you wish to partially transfer the tenancy or sub-let the premises.
77	An order recognising a person as a tenant or joining the person as a party to any proceedings relating to the premises, or both	Tenant	Explain why you would like NCAT to make this order, and whether you were living in the premises when the tenant died or left the premises.
79	An order recognising a remaining occupant as a tenant if the tenant or co-tenant is prohibited by a final apprehended violence order from having access to the residential premises	Tenant	Explain why you would like NCAT to make this order. Provide details about the final apprehended violence order (AVO).

### General orders

Applications for breach of the residential tenancy agreement are to be made within 3 months after the applicant becomes aware of the breach.

Section	Orders	Who can apply	Information required
187(1)(a)	An order that restrains any action in breach of a residential tenancy agreement	Landlord Tenant	Provide details about the terms of the agreement that have been broken.
187(1)(b)	An order that requires an action in	Landlord	Provide details about the terms of the

Section	Orders	Who can apply	Information required
	performance of a residential tenancy agreement	Tenant	agreement that have been broken.
187(1)(c)	An order for the payment of an amount of money <i>Maximum claim is \$15,000</i>	Landlord Tenant	Give reasons why NCAT should order payment to you. List the particulars and amount of each item being claimed.
187(1)(d)	An order as to compensation <i>Maximum claim is \$15,000</i>	Landlord Tenant	Give reasons why NCAT should order compensation to be paid. List the particulars and amount of each item being claimed.
187(1)(e)	An order that a party to a residential tenancy agreement perform such work or take such other steps as the order specifies to remedy a breach of the agreement	Landlord Tenant	Provide full details about the terms of the agreement that have been broken and the remedy you are seeking.
187(1)(f)	An order that requires payment of part or all of the rent payable under a residential tenancy agreement to the Tribunal until the whole or part of the agreement has been performed or any application for compensation has been determined	Landlord Tenant	Provide full details as to why rent should be paid to NCAT.
187(1)(g)	An order that requires rent paid to the Tribunal to be paid towards the cost of remedying a breach of the residential tenancy agreement or towards the amount of any compensation	Landlord Tenant	Provide full details as to why NCAT should order that rent paid should be used toward the cost of remedying a breach or toward compensation.
187(1)(h)	An order directing a landlord, landlord's agent or tenant to comply with a requirement of the Act or the regulations	Landlord Tenant	Provide full details about the sections of the Act that the tenant is failing to comply with.
187(1)(i)	A termination order or an order for the possession of premises	Landlord	Provide termination notice details and reasons why the orders should be made.
187(1)(j)	An order directing a landlord to give a former tenant access to residential premises for the purpose of recovering goods or fixtures that the former tenant is entitled to remove	Tenant	Provide full details of the goods or fixtures to be recovered.

### Mortgagee repossession

Section	Orders	Who can apply	Information required
122	An order for the repayment of any amount of rent, fee or other charge paid to occupy the residential premises after receiving notice to vacate where a mortgagee is entitled to possession	Tenant	Provide the date of the notice to vacate. List any amounts of rent, fees or other charges paid after that date

### Occupation fee

Section	Orders	Who can apply	Information required
123	An order for payment of an occupation fee	Landlord	Provide details of the dates the tenant remained in occupation after the date for vacation of the premises

### Rectification orders

Section	Orders	Who can apply	Information required
65D	An order relating to a rectification order made by NSW Fair Trading Application to be made within 14 days of the rectification order or amended rectification order	Landlord Tenant	Provide details of the order that you are seeking and the reasons why NCAT should make the order

## Rent and other payments

Section	Orders	Who can apply	Information required
44(1)(a)	An order that a rent increase is excessive Application to be made within 30 days after the notice of increase is given	Tenant	Provide evidence about market level of rents for the same kind of premises in a similar area, the state of the premises or work you have done to the premises.
44(1)(b)	An order that the rent payable is excessive due to the reduction or withdrawal of any goods, services or facilities provided with the residential premises Application to be made within 30 days after the notice of increase is given	Tenant	Provide details of the goods, services or facilities the landlord has reduced or withdrawn, and the date on which this occurred.
45	An order reducing the rent payable where the premises are unusable or uninhabitable or destroyed	Landlord Tenant	Provide details of the current rent and how the premises are unusable or uninhabitable or destroyed.
46	An order for the repayment of rent paid in excess of an amount specified by the Tribunal	Landlord Tenant	Provide copies of rent records or receipts.
47	An order for the repayment of rent or other payments made by the tenant contrary to the Act or the residential tenancy agreement	Tenant	Provide copies of rent records or receipts.
105D	An order about the rent payable by a co-tenant	Tenant	Provide copies of rent records or receipts.
141	An order declaring the rent under a social housing tenancy agreement is excessive when a rent rebate is cancelled Application to be made within 30 days after the cancellation of the rent rebate takes effect	Social housing tenant only	Provide details of the rent rebate and its cancellation

## Rental bonds

Section	Orders	Who can apply	Information required
175	An order regarding the payment of a rental bond Application to be made within 6 months after the bond is paid out	Landlord Tenant	Provide details, including the amount of each item claimed. Give reasons why you should be paid all or part of the rental bond. Advise NCAT if the bond was not lodged with NSW Fair Trading or was previously paid out.

## Repairs, alterations and additions to premises

Section	Orders	Who can apply	Information required
65	An order for repairs to be made by the landlord or reimbursement for repairs	Tenant	Provide receipts and details of repairs
65(1)(a)	An order that the landlord carry out repairs	Tenant	Explain what repairs you would like the landlord to carry out.
65(1)(b)	An order that the landlord reimburse the tenant an amount for urgent repairs carried out by the tenant	Tenant	Provide full details of the urgent repairs carried out and the cost of the repairs.
65(5)	An order that all or part of the rent payable be paid into the Tribunal until repairs are carried out	Tenant	Explain why you are requesting this order.
68(1)(a)	An order that the tenant may install a fixture or make a renovation, alteration or addition to the residential premises	Tenant	Explain why this order is necessary. Provide details about the fixture you want to install or the renovation, alteration or addition you wish to make.

Section	Orders	Who can apply	Information required
68(1)(b)	An order that the tenant may remove a fixture installed by the tenant	Tenant	Explain why this order is necessary. Provide details about the fixture you want to remove and how you will rectify any damage which may result.
69(1)(a)	An order prohibiting the tenant from removing a fixture	Landlord	Explain why this order is necessary. Provide details about the fixture the tenant wishes to remove.
69(1)(b)	An order that the tenant pay compensation for the cost of rectifying work done by the tenant on the residential premises	Landlord	Explain why the tenant should pay compensation to you. Provide details about the work required

### Residential tenancy agreements and pre agreement matters

Section	Orders	Who can apply	Information required
11	An order declaring that an agreement is or is not a residential tenancy agreement under the Act or that are or are not premises to which the Act applies	Landlord Tenant	Provide full details about the agreement. Explain why you think it is or is not a residential tenancy agreement under the Act.
16	An order that a landlord prepare and enter into a written residential tenancy agreement	Tenant	Provide details about the tenancy.
20(3)	An order about a fixed term agreement of 20 years or more	Tenant	Provide details about the tenancy and explain why the order or declaration is needed.
21	An order that a term of a residential tenancy agreement is void or partly void because the term is inconsistent with the Act or Regulations	Landlord Tenant	Explain which party of the Act you believe the term of the agreement is inconsistent with.
25	An order about a holding fee	Landlord Tenant	Provide details about the holding fee and explain when it was paid.
31	An order about amending a condition report	Landlord Tenant	Provide details about the part of the condition report you wish to amend and why.

### Residential tenancy databases

Section	Orders	Who can apply	Information required
217	An order that personal information about a person in a residential tenancy database be wholly or partly removed, amended or not be listed	Tenant	Explain why this order is necessary. Provide details about your listing in the residential tenancy database, including the name and address of the database provider.

### Security and safety of residential premises

Section	Orders	Who can apply	Information required
73(a)	An order to allow a lock or security device to be changed or removed or added	Landlord Tenant	Explain why this order is necessary and why changes you want made.
73(b)	An order authorising the landlord to refuse to give the tenant a copy of a key or other opening device or information	Landlord Tenant	Explain why this order is necessary.
73(c)	An order requiring a copy of a key or other opening device or information to be provided	Landlord Tenant	Explain why this order is necessary.

## Termination of residential tenancy agreements

Section	Orders	Who can apply	Information required
84	A termination order at the end of the fixed term	Landlord	Provide the termination date.
85	A termination of a periodic agreement (no grounds)	Landlord	Provide details of the type of agreement, termination date and notice given.
86	A termination order as the property is being sold	Landlord	Provide the termination date and the date the contract for sale was exchanged.
87	A termination order where the tenant has breached the residential tenancy agreement	Landlord	Provide details of the type of agreement, termination date, notice given and breach.
89(5)	A termination order and a finding that the tenant has frequently failed to pay rent or water usage	Landlord	Provide details of the type of agreement, termination date, notice given and breach.
90	A termination order where the tenant or occupant is causing serious damage or injury	Landlord	Provide details of the damage or injury, including the date/s when this occurred.
91	A termination order due to unlawful use of the premises by the tenant or occupant	Landlord	Provide details of the unlawful use of the premises, including the date/s when this occurred.
92	A termination order where the tenant or occupant has threatened, abused, intimidated or harassed the landlord, the landlord's agent, an employee or contractor	Landlord	Provide details of the threatening, abusive or intimidating behaviour or harassment, including the date/s when this occurred.
92A	A termination order where tenant has failed to comply with a rectification order	Landlord	Provide details of rectification order and non-compliance.
93	A termination order due to undue hardship	Landlord	Explain how you would suffer undue hardship if the tenancy were not terminated, for example, financial statements or health records.
94	An order for possession for a tenancy of 20 years or more	Landlord	Explain why this order is necessary.
95	An order for possession where the residential tenancy agreement has terminated and an occupant has not vacated	Landlord	Provide the termination date and details about when the tenant vacated and who remains in occupation.
98	An order revoking a termination notice given by a tenant because the landlord has remedied a breach  Application to be made before the termination date and within 7 days after being served the termination notice	Landlord	Provide details about the termination notice. Explain how you have remedied the breach.
101	An order requested by one co-tenant, terminating the residential agreement, where a termination notice has previously been given by another co-tenant	Tenant	Explain why you want NCAT to make this order. Provide details of the termination notice and termination date. Provide a copy of the residential tenancy agreement.
102	An order requested by one co-tenant, terminating their own tenancy or the tenancy of another co-tenant under the agreement, or terminating the residential tenancy agreement entirely	Tenant	Explain why you want NCAT to make this order. Provide details of the termination notice and termination date. Provide a copy of the residential tenancy agreement.
103	A termination order where the landlord has breached the residential tenancy agreement	Tenant	Provide details about the breach, including the date/s when this occurred.
103A	A termination order where the landlord has contravened the information disclosure provisions	Tenant	Provide details about the information that you say was required to be disclosed but was not.
104	A termination order due to undue hardship	Tenant	Provide details about how you would suffer

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			undue hardship if the tenancy were not terminated, for example financial statements or health records.
105	A termination order where a tenant has given a termination notice and not vacated	Tenant	Provide the termination date. Explain why this order is necessary
105E	A termination order for the residential tenancy agreement if the Tribunal is satisfied that a domestic violence termination notice was given by another co-tenant in accordance with Division 3A	Tenant	Provide details of how the termination notice was given
108	A termination order due to the death of the sole tenant	Landlord	Provide the date for termination of the tenancy
109	A termination order where the agreement is frustrated	Landlord	Provide details about when and how the premises have become unusable or uninhabitable or destroyed or appropriated by an authority
111	An order declaring that a termination notice was or was not given in accordance with the Act		Provide details about the termination notice and how it was served.
115	An order declaring that a termination notice has no effect because it was a retaliatory notice Application to be made within 30 days after being served with a 90 day no ground termination notice or within 14 days in any other case		Provide details about the termination notice. Explain how you believe it was retaliatory.
147	A termination order as the tenant is no longer eligible for social housing	Social housing provider only	Provide termination notice details and reasons why the termination order should be made.
151	A termination order as the tenant has been offered alternate social housing premises	Social housing provider only	Provide termination notice details and reasons why the termination order should be made.
154(a)	A termination order as the tenant has failed or refused to enter into an acceptable behaviour agreement	NSW Land and Housing Corporation only	Provide termination notice details and reasons why the termination order should be made.
154(b)	A termination order as the tenant has seriously or persistently breached the terms of an acceptable behaviour agreement	NSW Land and Housing Corporation only	Provide termination notice details and reasons why the termination order should be made.
154FA	A termination order as the tenant has been found guilty of an offence under section 69 or 69A of the <i>Housing Act 2001</i>	NSW Land and Housing Corporation only	Provide termination notice details and reasons why the termination order should be made.
187(1)(i)	A termination order or an order for the possession of premises	Landlord	Provide termination notice details and reasons why the orders should be made.



## Vesting of tenancy

Section	Orders	Who can apply	Information required
125	An order vesting a tenancy over the residential premises Application to be made within 30 days after being given notice of the mortgagee's proceedings for recovery of possession of the premises	Tenant	Explain whether you were a tenant or former tenant when legal proceedings were started and provide us with the reasons why the tenancy should be given to you.