

Resolving tenancy disputes

When you rent a place to live in Queensland, you have rights and responsibilities under the *Residential Tenancies and Rooming Accommodation Act 2008* ('the Act'). The Act describes the process that you and your lessor, agent or provider can use to resolve tenancy disputes.

Quick tips

Negotiate

If you have a tenancy problem, notify your lessor, agent or provider. You may be able to resolve the problem by talking with your lessor, agent, or provider, or by writing them a letter to explain the problem and the solution you are seeking. Keep copies of any correspondence. If you reach an agreement, put it in writing.

Notice to Remedy Breach

If your lessor, agent or provider has breached the terms of the agreement, or failed to meet their obligations under the Act, you can give them a Notice to Remedy Breach. This form asks them to fix the problem, or 'remedy the breach', by the due date on the notice. Notice periods apply.

If your lessor, agent or provider gives you a Notice to Remedy Breach, it is important to remedy the breach by the due date on the notice. If you cannot remedy the breach in time, or if you dispute the breach notice, it is important to contact the lessor, agent or provider to let them know. It is a good idea to put your response in writing and keep a copy.

Apply to the RTA Dispute Resolution Service

If you and the lessor, agent or provider have a dispute, you can use a Dispute Resolution Request to apply to the RTA for conciliation to resolve the dispute. The RTA Dispute Resolution Service may be able to help you, and the lessor, agent or provider, to negotiate and reach an agreement. For some matters you must apply to the RTA to resolve the dispute, before you can apply to the Tribunal for a tenancy hearing. If the RTA cannot assist you to resolve the dispute they will issue a Notice of Unresolved Dispute.

Seek tenancy advice

When resolving a tenancy dispute it is important to have information about the Act and your rights and responsibilities. You can contact a tenant advice service for advice and assistance.

Apply to the Tribunal

The Tribunal has the power to hear tenancy matters and can make a range of orders to resolve tenancy disputes. Tribunal applications are either urgent or non-urgent applications. Urgent applications are defined in the Act. All other matters are non-urgent applications.

For urgent applications, you can apply directly to the Tribunal without first applying to the RTA Dispute Resolution Service. For non-urgent applications, you must first apply to the RTA Dispute Resolution Service. If the RTA cannot assist you to resolve the dispute, they will send you a Notice of Unresolved Dispute (NURD).

When you lodge a non-urgent application with the Tribunal you must include the RTA conciliation number stated in the NURD.

Report offences to the RTA

Failure to comply with some parts of the Act is an offence. Offence provisions include failure to lodge bond money with the RTA, unlawful entry and unlawful seizure and disposal of tenant goods. You can report offences to the RTA Investigations Unit who can investigate offences. A person who commits an offence can be fined.

Ending your tenancy

If you cannot resolve a dispute, you may want to take steps to end the tenancy and move out. To end your agreement, you will need to give written notice and follow the process set out in the Act. Notice periods will apply. If you have a fixed term residential tenancy agreement you may need to apply to the Tribunal for an order to end your agreement.

See the *You Want to Leave Tenancy Facts*.

What's inside

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Tenancy Facts are published by Tenants Queensland (TQ) to assist tenants and residents. Tenancy Facts are available from your local QSTARS advice service or TQ at www.tenantsqld.org.au

Who's who? A **lessor** is the person who gives a **tenant** the 'right to occupy' a residential premises under the Act. Lessors often employ real estate **agents** to work on their behalf. A **provider** is a person who provides rooming accommodation to **residents**.

The Residential Tenancies Authority (RTA) is the government authority that oversees tenancy laws in Queensland. Tenancy forms are available from the RTA online at www.rta.qld.gov.au or call the RTA on 1300 366311

The Tribunal refers to the Queensland Civil and Administrative Tribunal (QCAT), which hears residential tenancy disputes. To find your local Tribunal visit www.qcat.qld.gov.au or call QCAT on 1300 753 228





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Negotiating a solution

If you have a tenancy problem, you should contact the lessor, agent or provider directly, to notify them about the problem and negotiate an agreement. It can also be helpful to write a letter explaining the problem and the solution you are seeking. Keep a copy as evidence of your request.

When negotiating, it is important to be aware of your rights and responsibilities as a tenant or resident. You can contact a tenant advice service for information and advice.

If there is a breach of the agreement

If the lessor, agent or provider has breached their obligations under the agreement, or failed to meet their responsibilities under the Act, you can give them a Notice to Remedy Breach, which asks them to fix the problem by the due date on the form. Keep a copy for your records. This form is useful evidence if you have to apply to the Tribunal for a decision about the breach.

Your notice must give the lessor, agent or provider the correct amount of time to remedy the breach.

- Give seven days notice in general tenancies and moveable dwellings.
- Give five days notice in rooming accommodation.

If you send the notice by mail add extra days to the notice period, to allow for mail delivery in your area.

If you have a dispute with the lessor, agent or provider and you reach an agreement to solve the problem, put the agreement in writing. Make sure all parties sign the agreement and keep a copy as evidence. Remember that any agreement you make with the lessor, agent or provider must not contradict the Act.

If you cannot reach an agreement, you can seek assistance from the RTA Dispute Resolution Service and may apply to the Tribunal for a tenancy hearing if you cannot resolve the dispute.

Leaving because a breach is not remedied

If you have given the lessor, agent or provider a Notice to Remedy Breach but they do not fix the breach by the due date, you may want to end the agreement 'with grounds' due to their 'unremedied breach' of the agreement. You must give written notice to end the agreement. Time periods apply.

If you have fixed term agreement in a general tenancy and want to leave early because of an unremedied breach by the lessor or agent, the breach must be serious to justify your action. If not the lessor or agent may dispute your reason for leaving and try to claim money from your bond because you left before the end of the fixed term.

If you have a fixed term residential tenancy agreement and want to leave because of an unremedied breach, it is advisable to apply to the Tribunal and seek a termination order to end your agreement because of the breach. This is an urgent application.

Tenants can also apply to the Tribunal for non-urgent hearings about a breach of the agreement. You can seek orders the lessor remedy the breach, the rent be decreased, or you be compensated for relocation costs if you have to move out because of the breach.

For more information see the [You Want to Leave Tenancy Facts](#).

Dispute Resolution Services

The RTA Dispute Resolution Service provides free telephone conciliation (mediation) to assist parties to communicate and resolve tenancy disputes. If you are unable to resolve a dispute by negotiating directly with the lessor, agent or provider, you can apply to the RTA Dispute Resolution Service.

To apply, fill in an RTA Dispute Resolution Request (form 16) and email or post this form to the RTA. A conciliator from the RTA will then contact you to explain the dispute resolution process.

It may take a few weeks for an RTA conciliator to contact you. If you need the problem to be dealt with quickly, note this on the form, or in an attached letter. It can also be useful to attach copies of letters, forms or other relevant documents.

Is conciliation required?

Under the Act, some matters are defined as urgent Tribunal applications. In these situations, you can apply directly to the Tribunal for an urgent hearing without first applying to the RTA Dispute Resolution Service.

All other tenancy matters are non-urgent Tribunal applications. This means that you must first apply to the RTA for dispute resolution before you can apply to the Tribunal for a hearing.

If your matter is defined as an urgent application, you may still use the RTA Dispute Resolution Service to try to resolve your dispute before going to the Tribunal.

What is conciliation?

The RTA Dispute Resolution Service consists of a team of trained conciliators. Their role is to provide information about the Act and assist parties to communicate and resolve their tenancy dispute.

The conciliator will:

- Contact each party and clarify the issues in dispute.
- Help you and the lessor, agent or provider, to understand how the Act applies to your situation.
- Assist parties to share information, including copies of receipts, documents or other evidence.
- Facilitate agreement by exchanging offers and suggesting options.

The dispute resolution process often involves a series of phone calls. In some situations, the conciliator may suggest that a teleconference or face-to-face meeting will be helpful.

Withdrawing a dispute

You can withdraw a Dispute Resolution Request at any time by notifying the RTA Dispute Resolution Service in writing.

Participation in the dispute resolution process is voluntary for all parties. There are no penalties if you, or the other party, do not participate, or if you cannot reach an agreement. If you agree to participate, you can withdraw from the process at any time.

Confidentiality

The dispute resolution process is based on three principles:

- **Natural justice:** a process based on fairness, in which each party gets to put forward their side of the story.
- **Impartiality:** this means not taking sides, but providing direction when necessary.
- **Confidentiality:** all discussions are kept confidential between the parties, except in special circumstances as required by law. Any admissions made during conciliation cannot be used in the Tribunal or in any other court.

In some situations, the RTA may decide that a dispute is not suitable for conciliation. For example, the problem may not come under the tenancy laws. The RTA will advise you about what to do if they are unable to handle your dispute.

Who can participate in dispute resolution?

In most situations, parties must represent themselves during the dispute resolution process. However, the conciliator can let someone represent you if they agree you need representation. Corporations can also nominate a representative.

The conciliator can allow other people to be involved in the process if they are satisfied that they have sufficient interest in the dispute. For example: if the dispute relates to the lessor's consent to sublet, the conciliator may allow a prospective sub-tenant to participate.

Conciliation agreements

If you reach an agreement, the conciliator can provide a written record of the agreement. Each party should sign the agreement and keep a copy. The conciliation agreement will become part of your tenancy agreement and can be enforced by the Tribunal.

If the agreement relates to a rental bond dispute, each party will be asked to fill in and sign a Refund of Rental Bond form and send it to the RTA. The RTA can then refund the bond as agreed.

If you agree to release all your bond money to the other party, confirm with the conciliator and the other party that this agreement is 'in full and final settlement of all claims relating to the tenancy'. If this is the case, write this on the Refund of Rental Bond form. This may protect you from additional future claims.

If a conciliation agreement is broken

If you believe the lessor, agent or provider has broken a conciliation agreement, you can apply directly to the Tribunal for an urgent hearing, without going back to the RTA. If the lessor, agent or provider believes that you have broken the conciliation agreement, they can also apply to the Tribunal for a decision.

RTA forms are available online at www.rta.qld.gov.au.

If no agreement is reached

If the dispute resolution process ends without an agreement being reached, or if one of the parties is unwilling to participate in the dispute resolution process, the RTA will issue a Notice of Unresolved Dispute. The RTA will send the Notice of Unresolved Dispute to the person who sent in the Dispute Resolution Request form. This person then has the option to apply to the Tribunal for a tenancy hearing and seek a final decision about the dispute.

Applying to the Tribunal

The Queensland Civil and Administrative Tribunal (QCAT) has the power to hear tenancy disputes. If you are unable to resolve a tenancy dispute, you can apply to the Tribunal for a Minor Civil Dispute Residential tenancy hearing and seek a final decision.

In the Tribunal, each party must represent themselves, and legal representation is not allowed, except in certain circumstances.

Before you attend a Tribunal hearing, it is a good idea to seek tenancy advice about how the tenancy law applies in your situation. Be aware that under the Act time limits may apply to lodging your application.

Urgent and non-urgent applications

The Act defines two types of Tribunal applications: urgent applications and non-urgent applications. The Tribunal application form includes a list of all urgent and non-urgent applications and the relevant sections in the Act. Your application will need to list the section number(s) for the type of application you are making.

If your matter is defined in the Act as an urgent application, you can apply directly to the Tribunal for a tenancy hearing, without first going through the RTA Dispute Resolution Service.

All other matters are defined as non-urgent applications and you must apply to the RTA Dispute Resolution Service for conciliation before you can apply to the Tribunal for a hearing.

If you apply to the RTA Dispute Resolution Service but your matter cannot be resolved, the RTA will send you a Notice of Unresolved Dispute (NURD). This notice will include a conciliation number.

When you complete a Tribunal application for a non-urgent hearing, you will need to write the RTA conciliation number on the application form, and attach a copy of your NURD.

Time limits

When applying to the Tribunal, it is important to act quickly as time limits may apply. If you fail to act within the required time limit you may lose your right to have the matter heard by the Tribunal.

For example, if the dispute relates to a breach of a tenancy agreement, you must apply to the Tribunal within six months of becoming aware of the breach. To dispute an abandonment notice, or Tribunal abandonment order, you must apply to the Tribunal within 28 days of receiving the abandonment notice, or the order being made.



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Applying for a hearing

To apply to the Tribunal for a tenancy hearing, complete and lodge an Application for minor civil dispute – residential tenancy dispute. The QCAT form 2 application form is used for both urgent and non-urgent applications.

Tribunal application forms are available from your local courthouse or online at www.qcat.qld.gov.au

Applications must be lodged in person or by mail at the local Magistrates Court closest to the rental premises (not including the Brisbane Magistrates Court) or the QCAT registry in Brisbane.

When you lodge your application, you will need to provide the Tribunal with at least three copies of your application and supporting documents (one for you as the applicant, one for each respondent, and one for the Tribunal).

If there is more than one respondent, an extra copy of the application form and attachments is required for each additional respondent.

On the application form there is space to provide details about the dispute and the decision you would like the Tribunal to make.

Your application can detail your claim and refer to any supporting evidence you have attached. If there is not enough space on the application form, you can attach additional signed pages. If you are seeking compensation, include copies of receipts or invoices.

Tribunal decisions

The maximum monetary limit for Tribunal applications is \$25,000. Claims for amounts that are over the maximum limit must usually be heard in the Magistrates Court.

The Tribunal has the power to make a range of decisions in relation to tenancy disputes. Examples of decisions the Tribunal can make include:

- Payment of money, compensation, or reduced rent.
- Changing the rules of entry.
- Terminating an agreement or setting aside a Notice to Leave.
- Performance of specified work or action to remedy a breach of the agreement.
- Refunding of rental bond money.

Generally, the type of decisions the Tribunal can make will depend on the nature of the tenancy dispute. If you apply to the Tribunal, you will need to apply under the sections of the Act that relate to the type of decisions you are seeking.

A full list of both urgent and non urgent tribunal applications for general tenancies or rooming accommodation is included in the information attached to the QCAT form 2 Application for Minor Civil Dispute - Residential Tenancy Dispute.

For advice and assistance to complete a Tribunal application form contact your local tenant advice service.

Costs

When you lodge a Tribunal application, you will need to pay a filing fee. The fee depends on how much money you are claiming. QCAT filing fees increase each year. You can check current fees on the QCAT website at www.qcat.qld.gov.au

In July 2016 QCAT filing fees for tenancy tribunal hearings ranged from \$24.60 to \$315.70. The fee depends on the monetary amount being claimed.

Parties appearing in the Tribunal for a tenancy matter are liable for their own costs. However, the Tribunal can award the cost of the filing fee as part of the claim.

Your application can include a request that the respondent compensate you for the filing fee. If you are responding to a claim by the lessor or agent, they can include the cost of the filing fee in their claim against you.

Waiver of fees

If you apply for a Tribunal tenancy hearing and are low income and cannot afford the QCAT filing fee you can fill in a QCAT form 49 to apply for a waiver of fees due to financial hardship.

You need to attach evidence to show you are low income (such as a copy of a health care card, pension card, or evidence you receive Centrelink benefits). If you earn a low income you can fill in details of your income and expenditure to show QCAT fees would cause financial hardship.

The principal registrar may agree to waive the filing fee if they are satisfied that payment of the fee would cause the person undue financial hardship.

How to contact QCAT

Address: Level 9, Bank of Queensland Centre
259 Queen Street, Brisbane QLD 4000

Post: GPO Box 1639, Brisbane QLD 4001

Phone: 1300 753 228

Email: enquiries@qcat.qld.gov.au

Website: www.qcat.qld.gov.au

The QCAT office in Brisbane is the main point of contact for QCAT.

Your local Magistrates Court (except the Brisbane Magistrates Court) is also able to supply and accept QCAT application forms and assist with enquiries. In regional areas QCAT hearings will generally be held in your local Magistrates Court.

For more information or to access QCAT forms contact your local Magistrates Court or visit www.qcat.qld.gov.au

The hearing date

Most Tribunal matters can be heard within a few weeks of the application being lodged. However, waiting times may vary depending on how busy the Tribunal is and how often they hold hearings. In parts of regional Queensland the Tribunal may only hear matters once a month.

Tribunals will usually prioritise urgent applications, these are defined in the Act. If you have a non-urgent application but need the Tribunal to hear your matter quickly, explain this when you lodge your application. If there are certain days or times you are unable to attend a hearing, for example if you are going away on holidays, put this in writing when you lodge your application.

Notice of hearing

When the Tribunal receives an application, they will send all parties a Notice of Hearing with the date, time, and location of the hearing. The Tribunal will also send the respondents a copy of the application that has been lodged against them.

If you are the respondent, the Tribunal will send you the Notice of Hearing along with a copy of the application lodged by the lessor, agent or provider. You need to read the application, prepare your response, and gather your evidence to take to the hearing.

If you need to change the hearing date

If you receive a Notice of Hearing but cannot attend the hearing at that time, you should immediately contact the Tribunal and request the hearing be adjourned to another date. You will need to confirm this request in writing and have a good reason why you cannot attend. The Tribunal will consider your request.

Adjournment requests may not be decided until the hearing day. If the adjournment is not granted the hearing may go ahead without you. You should make arrangements to attend the hearing, unless you receive prior confirmation from QCAT that the adjournment has been granted. If you cannot attend in person you can contact QCAT to make arrangements to attend by phone, or provide a written response.

If you cannot attend the hearing

If you cannot attend the hearing in person, you can appoint someone who is familiar with your case to represent you. You will need to complete an Application for leave to be represented form.

The person you appoint should have a good knowledge of your case. You will need to ensure they have original copies of your evidence and documents to present at the hearing.

If someone is representing you at the hearing, you should provide a sworn Affidavit statement about your matter. An Affidavit must be signed by you and witnessed by a Justice of the Peace, Solicitor or Commissioner for Declarations.

If you do not have someone who can represent you at the hearing, you can ask the Tribunal if you can attend the hearing via telephone. Fill in an Application for attendance at hearing by Remote Conferencing and provide the Tribunal with a copy of your evidence and documents before the hearing.

Who attends the hearing?

In the Tribunal you must usually represent yourself. Professional advocates, such as lawyers, cannot represent you or the lessor or provider, unless the Tribunal agrees.

The hearing can be attended by:

- **The Member or Adjudicator:** the people who will most likely hear the matter, review the evidence and make a final decision about the dispute.
- **The Applicant:** the person who commences proceedings.
- **The Respondent:** the person who is responding to the proceeding.
- **Witnesses:** for either the applicant or respondent.
- **Interpreters:** if requested.

Tribunal hearings are public, with a few exceptions. The Tribunal will make an audio recording of the hearing including the reasons for the decision. You can request a copy of this recording. A recording of the decision is free but a fee will apply if you want a recording of the whole hearing.

If you need an interpreter

Let the Tribunal know in advance if you need interpreter assistance at the hearing. The Tribunal will usually arrange and pay for the interpreter. When applying for a hearing indicate on your application if you need an interpreter.

If you are the respondent and need an interpreter when you attend a Tribunal hearing, let the Tribunal know as soon as you receive notice of the hearing date. The Tribunal will usually ask you to post or email them a written request for interpreter assistance.

Can someone represent you?

All parties involved in a matter before the Tribunal must represent themselves, unless it is in the interests of justice that they be represented. This may apply in cases where there is a minor involved, the matter is complex, or a person does not have the capacity to understand the process due to a disability.

If you need someone to represent you at the hearing, you must seek permission from the Tribunal. You will need to complete an Application for leave to be represented form. Permission to be represented is at the discretion of the Tribunal.

If you are applying for a hearing you will need to include details of your representative on an Application for leave to be represented form. Lawyers are not allowed to appear in QCAT, however you can appoint someone familiar with your case to represent you if you need assistance to attend the Tribunal hearing.

If you are responding to an application and need assistance to present your case, you can take a support person or advocate to the hearing to assist you. If you want the person to speak on your behalf, you will need to seek permission from the Tribunal.

The lessor or provider may have a real estate agent represent them at the Tribunal. The agent may have to show the Tribunal evidence they are authorised to act on behalf of the lessor or provider.



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What to take to the hearing

The Tribunal will make a decision based on the evidence presented by each party. Therefore it is important to have evidence to support your case. If you are applying for a hearing you can attach copies of your evidence to your application.

Evidence can include:

- Your written statement or sworn Affidavit about the dispute.
- A copy of the tenancy agreement and any Condition Reports.
- Evidence of rent payments or a copy of your rent record.
- Photographs showing the condition of the premises.
- Receipts or quotes.
- Copies of letters or forms you have sent or received.
- Signed Affidavit statements by people who can provide evidence regarding the matters in dispute.

The Tribunal is not bound by formal rules of evidence and can accept any evidence that it believes is credible and relevant.

If you are responding to an application it is good to gather your evidence and prepare a statement to take to the hearing. Remember to keep your statement short and to the point. You must respond to the claims in the application lodged by the other party.

When you attend the Tribunal hearing you will need spare copies of your statement and evidence to give to the Tribunal and the other party.

Before the hearing, you may prefer to fax or mail a copy of your statement and evidence to the Tribunal so it can be attached to the file. The Adjudicator or Member may get an opportunity to read your statement, prior to the hearing.

Affidavits

You may want to prepare your statement in the form of a sworn Affidavit statement that must be signed by you and witnessed by a Justice of the Peace, Solicitor or Commissioner of Declarations.

An Affidavit is needed if you, or a witness, cannot attend the hearing and present evidence in person. Even if you are attending the hearing, you may prefer to prepare your statement in the form of a sworn Affidavit.

If your Affidavit statement is longer than a page or two you can number each paragraph so you can easily refer to relevant information during the hearing.

Blank Affidavit forms are available online at www.courts.qld.gov.au or from your local Magistrates Court. A list of Justices of the Peace is available online at www.justice.qld.gov.au or ask at your local courthouse.

For advice and assistance with tenancy hearings in the Tribunal contact a tenant advice service

Responding to an application

If you are responding to a claim lodged by the lessor, agent or provider, you will be the respondent at the hearing. The Tribunal will send you a Notice of Hearing and a copy of the application lodged by the other party. Read this carefully, as this is what you need to respond to when you attend the hearing.

As the respondent, it is important to attend the hearing so that you can present your side of the story. If you don't attend the hearing, an order may be made in your absence, based solely on the information presented by the lessor, agent or provider.

It is in your interests to attend the hearing because:

- The lessor or provider may apply for other orders that you have not been told about (for example a compensation order).
- Your evidence may show that the claims by the lessor, agent or provider are unreasonable or invalid.
- The Member or Adjudicator will hear both sides of the dispute.

As a respondent it is important to gather evidence and prepare your statement. Keep in mind that you need to respond to the claim being made by the other party. Has evidence been provided to justify the claim? Do you have evidence to dispute the claim? Are there other issues that need to be taken into account? What decision do you want the Tribunal to make to resolve the dispute?

Be aware the Tribunal has limited time to deal with each hearing and may not have time to read a lengthy statement. If you have a long statement number the paragraphs so you can refer to them easily. It is also useful to list and number any attached evidence.

When preparing for a Tribunal hearing, it is useful to have a one page cover sheet, which summarises your key points and refers to your evidence. At the hearing this summary can help you stay on track and focus on the most important issues. Your summary statement can also state what decision you think should be made.

Counter applications

If you are the respondent, you may use a QCAT form 8, Minor civil dispute – counter application form, to lodge a counter application against the applicant. This applies when your claim arises out of the same situation and you want to dispute the applicant's allegations and request an alternative Tribunal decision.

For example, a dispute over your bond refund may relate to a repair dispute. You could lodge a counter application to dispute the bond claim and seek a rent decrease or compensation order about the repairs. You may use this form instead of making a separate application. This means both applications may be heard and decided together.

To lodge a counter application, fill in a Minor civil dispute – counter application form and lodge at least three copies at the same Tribunal where the original application was lodged. A counter application must be lodged as soon as practicable, and no later than seven days after the original application is filed.

Attending a hearing

Even though the Tribunal is less formal than a Court many people feel nervous about the process. If you are going to the Tribunal, you might find it useful to view the QCAT videos on the Tenants Queensland website, or sit in on hearings in your local Tribunal before your matter is heard.

Some Tribunal hearings begin with the Member or Adjudicator asking you and the lessor, agent or provider whether it is possible for you to settle the matter before starting the hearing. If you both agree, you may be left to discuss and negotiate the matter. If you settle the dispute this way, the Member or Adjudicator will record the agreement you have reached. If you don't settle the dispute, the hearing will begin.

In some Queensland regional areas the Tribunal will refer all non-urgent tenancy applications to the local Department of Justice and Attorney General Dispute Resolution Service for mediation, before the Tribunal will hear the matter.

Tribunal hearings are like other Court hearings in that perjury (lying) is a criminal offence. All parties are required to give evidence under oath or make an affirmation to tell the truth.

You and the lessor, agent or provider should both be given an opportunity to present your case. You will usually only have a few minutes, so it's best to plan what you want to say, and start with the most important points.

The person who lodged the application (the applicant) will be asked to speak first and confirm the details of their claim. The respondent can then respond to the claim and present evidence.

The Tribunal may question each party about their evidence. Each party will also have an opportunity to question the evidence or statements made by the other party.

It is up to the Member, or Adjudicator, to decide whether or not they need to hear evidence from witnesses before they make a decision. If you have a witness present, let the Member or Adjudicator know at the start of the hearing.

Conduct of proceedings

The Tribunal must comply with the rules of natural justice. In essence, the Tribunal should conduct a hearing that is appropriate to the circumstances and shows a lack of bias. There should be evidence to support the Tribunal's decision.

The Tribunal is not bound by the rules of evidence and may inform itself in any way it considers appropriate. The Tribunal must, as far as practicable, ensure all relevant material is disclosed to the Tribunal.

The Tribunal must take steps to ensure that each party understands the practices and procedure of the Tribunal, the nature of assertions made and the decision made by the Tribunal.

If a party does not attend the hearing and the Tribunal is satisfied the person was given notice of the hearing, or the person could not be found, the Tribunal can hear and decide the matter in the person's absence.

The Tribunal decision

After hearing from both sides, the Member or Adjudicator will make a decision and will give reasons for this decision. The Tribunal will send each party a copy of this decision.

A Tribunal decision is final and binding on all parties. You can ask the Member or Adjudicator to explain the decision to you if you are unclear what it means.

Written reasons for decisions

Parties can request written reasons for the decision. You may, request written reasons within 14 days after the decision takes effect, and the Tribunal must comply within 45 days.

Audio recordings are made of all Tribunal hearings. If the reasons for a decision were given orally, the Tribunal can provide you with an audio recording of the appropriate part of the proceedings.

Parties to proceedings can also order a full copy of the audio recording or a transcript. A fee will apply for this.

Can the order be changed?

In limited circumstances, you can apply to the Tribunal to seek changes or corrections to the order, or apply to have the matter reopened. Reopenings apply if you were unable to attend the original hearing or it is in the interests of justice to reopen the matter as significant new evidence is available.

You will need to use an Application for reopening, correction, renewal or amendment form, to apply to the Tribunal to have the matter re-opened, or to seek changes to the order. You must lodge this application with the Tribunal within 28 days of the original decision. A filing fee will apply.

You can apply for a reopening of the proceeding if:

- You did not appear at the hearing and had a reasonable excuse for not attending; or
- You would suffer a substantial injustice if the proceeding was not reopened as significant new evidence has arisen that was not available at the original hearing.

You can apply to the Tribunal to correct a decision if:

- There is a clerical mistake, error, miscalculation, or mistake in description of matter, person or thing mentioned in the decision.

You can seek a renewal of a Tribunal decision if:

- It is not possible to comply with the Tribunal's final decision, or there are problems with interpreting, implementing or enforcing the decision.

When lodging an Application for reopening, correction, renewal or amendment form, you will need to attach relevant evidence, such as receipts showing rent is paid up-to-date, or a medical certificate that states your reason for not attending the original hearing. The Tribunal will decide whether or not to grant your application.

If you are seeking a reopening of a matter you may also want to apply for an Interim order or injunction, to stop the original decision going ahead before the matter is reopened.

Appealing a QCAT decision

In limited circumstances parties can appeal a QCAT decision. The appeal process differs depending on the type of decision and who made the original decision.

You can appeal a decision on the following grounds:

- There has been an error of fact in making the decision, and/or an error of law in the way the Tribunal applied the legislation.
- There has been a denial of natural justice or procedural fairness in the way the Tribunal conducted the hearing

The Tribunal will also consider if there is public interest or community benefit in granting the appeal, such as clarifying how the law applies, or changing an incorrect decision. You cannot appeal a Tribunal matter simply because you are unhappy with the decision and want another opportunity to argue your case.

For a tenancy matter you must seek leave to appeal (permission) and must have valid grounds (reasons) to appeal the decision. You then need to fill in an Application for leave to appeal or appeal form, and lodge it with the Tribunal within 28 days of the hearing decision, or within 28 days of receiving written reasons for the decision. A filing fee will apply.

All Tribunal hearings are digitally recorded. Before you appeal a decision it is a good idea to apply to the Tribunal for written reasons, or an audio recording or transcript of your hearing, as this may provide you with evidence to justify your appeal. You must request written reasons within 14 days of the original decision. QCAT has 45 days to provide you with written reasons. You then have 28 days to lodge your appeal application with the Tribunal.

If the Tribunal grants leave to appeal and hears the appeal they may make a new decision based on the information in the appeal application and original QCAT case file, or may refer the matter back to the Tribunal for a new hearing.

Seeking a stay of decision

If you are appealing a Tribunal decision you may also want to request a stay of the original Tribunal decision until the appeal is decided. For example if a tenancy has been terminated and a Warrant of possession issued, and you are appealing this decision, you could seek a Stay order to stop the Warrant being enforced until the Appeal is decided. Granting a Stay is at the discretion of the person hearing the matter.

To apply for a Stay you need to lodge an Application to stay a decision form 44 at the Tribunal, along with your Application for leave to appeal or appeal form 39. If requesting a stay of a decision it is advisable to provide evidence to justify your request, including evidence to show the other party will not suffer disadvantage or detriment if the stay is granted.

Offences and penalties

Some parts of the Residential Tenancies and Rooming Accommodation Act 2008 describe offences and penalties to deter and punish unlawful behaviour. People who commit an offence can face a penalty fine. For example, the penalty for failing to lodge a rental bond with the RTA is more than \$4,000.

The RTA is responsible for overseeing the Act and for investigating offences. If you believe the lessor, agent or provider has committed an offence you can contact the RTA Investigations Unit to request a complaint kit and lodge a written complaint and evidence.

The RTA seeks to resolve disputes and aims to educate all parties about their obligations under the Act. However the RTA may prosecute offences if there is evidence that an offence has been committed and the matter cannot be resolved.

Further help

Tenants Queensland

Tenants Queensland (TQ) is a specialist community and legal service that has been providing services to and representing the interests of residential renters in Queensland since 1986. The QSTARS advice service is managed by TQ and delivered in collaboration with partner organisations.

For more information visit www.tenantsqld.org.au

Queensland Statewide Tenant Advice and Referral Services (QSTARS)

QSTARS provides specialist tenancy advice, advocacy support and referral for Queensland renters.

Contact QSTARS for tenancy advice on: **1300 744 263**

Open Mon – Fri 9am – 5pm (extended hours to 7pm on Tues & Wed)

Visit www.qstars.org.au for fact sheets and information

Translating and Interpreting Service (TIS)

If you need an interpreter let us know when you call, or call the TIS translating and interpreting service on 131 450 and they can help you contact our service.

Queensland Civil Administrative Tribunal (QCAT)

QCAT hears tenancy tribunal matters at the QCAT registry in Brisbane or in your local Magistrates Court (except Brisbane). To get QCAT forms or find your local Tribunal visit www.qcat.qld.gov.au or call QCAT on 1300 753 228

Residential Tenancies Authority (RTA)

The RTA is the Queensland government authority. RTA tenancy forms are available at www.rta.qld.gov.au or call 1300 366 311



Tenants Queensland is an independent community organisation. We gratefully acknowledge funding from the Commonwealth Government Community Legal Services program and the State Government Department of Housing and Public Works QSTARS program

Disclaimer: This brochure provides information only and is not intended to provide legal advice.