

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 facts

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 an email or 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 RTA Form 11 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. 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 RTA Form 16 Dispute Resolution Request to apply 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 Queensland Civil & Administrative Tribunal (QCAT) for a tenancy hearing. If the RTA cannot assist you to resolve the dispute they will issue a Notice of Unresolved Dispute (NURD).

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 QCAT has the power to hear tenancy matters and can make a range of orders to resolve tenancy disputes. Matters 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 QCAT for an order to end your agreement.

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

What's inside

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Who's who?

A **lessor** is the person who gives a tenant the 'right to occupy' a residential premises. Lessors often employ real estate agents to manage premises on their behalf.

A **provider** is a person who provides rooming accommodation to residents.

Tenants Queensland (TQ) is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986.

QSTARS is a program providing specialist advice and support to renters, funded by the Qld Government, delivered by TQ.

The **RTA** is the government authority that manages rental bonds, provides forms and information, conducts dispute resolution and investigates complaints of unlawful conduct under tenancy laws.

The Tribunal or **QCAT**, hears and makes binding decisions about residential tenancy disputes.



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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 QCAT for a decision about the breach.

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

- Seven (7) days notice in general tenancies and moveable dwellings.
- Five (5) 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 you 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 a 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 QCAT and seek a termination order to end your agreement because of the breach. This is an urgent application.

Tenants can also apply to QCAT 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 fact sheet](#).

Leaving because a repair order has not been complied with

If you have given the lessor, agent or provider a notice advising that urgent repairs are required to the premises, and those works are not completed within a reasonable time, you may make an urgent application to QCAT for a repair order. A repair order will require your lessor or provider to complete the urgent repairs within a specified period of time. If the lessor or provider does not comply with the repair order, you may give an RTA Form 13 Notice of Intention to Leave for failure to comply with a repair order.

Dispute Resolution Services

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. The RTA Dispute Resolution Service provides free telephone conciliation (mediation) to assist parties to communicate and resolve tenancy disputes.

The fastest way to apply is to access RTA Web Services <https://www.rta.qld.gov.au/online-tenancy-dispute-resolution>.

You can also fill in an RTA Form 16 Dispute Resolution Request 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 or phone the RTA. 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 QCAT applications. In these situations, you can apply directly to QCAT 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 a QCAT or any other court hearing.

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 RTA Form 4 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 QCAT 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](http://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 (NURD). The RTA will send the NURD to the person who made the Dispute Resolution Request. This person then has the option to apply to QCAT for a tenancy hearing and seek a final decision about the dispute.

Applying to the Tribunal

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

At QCAT, each party must represent themselves. Legal representation is not allowed, except in certain circumstances.

Before you attend a QCAT 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 QCAT application form includes a list of all urgent and non-urgent applications. If you apply to QCAT, you will need to note the appropriate section number 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 QCAT, 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 at QCAT.

For example, if the dispute relates to a breach of a tenancy agreement, you must apply to the Tribunal within six (6) months of becoming aware of the breach. To dispute an abandonment notice, or Tribunal abandonment order, you must apply to QCAT within 28 days of receiving the abandonment notice, or the order being made.

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Applying for a hearing

To apply to QCAT for a tenancy hearing, complete and lodge an Application for minor civil dispute – residential tenancy dispute. The QCAT form 2 Application for Minor Civil Dispute – Residential Tenancy Dispute 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 QCAT 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 you can include their details on an extra piece of paper. 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 QCAT applications is \$25,000. Claims for amounts that are over the maximum limit must usually be heard in the Magistrates Court.

QCAT has the power to make a range of decisions in relation to tenancy disputes. Examples of decisions QCAT 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 QCAT 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

As of July 2022 QCAT filing fees ranged from **\$28.60** to **\$367.00**.

- **\$28.60**: non-monetary order or claims not more than \$500
- **\$73.45** claims over \$500 but not more than \$1,000
- **\$130.70** claims over \$1,000 but not more than \$10,000
- **\$367.00** claims over \$10,000

Parties appearing in QCAT for a tenancy matter are liable for their own costs. However, QCAT 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 are applying for a hearing, have a 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 other evidence you receive Centrelink payments). 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 QCAT matters can be heard within a few weeks of the application being lodged. However, waiting times may vary depending on how busy QCAT is and how often they hold hearings. In parts of regional Queensland, QCAT hearings may only occur once a month.

Tribunals will usually prioritise urgent applications, these are defined in the Act. If you have a non-urgent application but need QCAT 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 QCAT receives an application, they will send all parties a Notice of Hearing with the date, time, and location of the hearing. QCAT will also send the respondents a copy of the application that has been lodged against them.

If you are the respondent, QCAT 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 QCAT 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. QCAT 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 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 56).

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 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 QCAT if you can attend the hearing via telephone. Fill in an Application to attend a proceeding by telephone or video and provide QCAT with a copy of your evidence and documents before the hearing.

Who attends the hearing?

At a QCAT hearing 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 the proceeding.
- **The Respondent:** the person who is responding to the proceeding.
- **Witnesses:** for either the applicant or respondent.
- **Interpreters:** if requested.

QCAT hearings are public, with a few exceptions.

All QCAT hearings are digitally recorded in compliance with the Recording of Evidence Act 1962. You can request a free copy of the audio recording within 14 days of the decision by applying online or complete the Request for reasons form and sending to QCAT. If you require a transcript of the hearing, a fee applies – see the QCAT website for further information.

If you need an interpreter

Let QCAT know in advance if you need an interpreter at the hearing. QCAT 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 at an upcoming hearing, contact QCAT as soon as you receive notice of the hearing date.

Can someone represent you?

All parties involved in a matter before QCAT must represent themselves, unless it is in the interests of justice that they be represented. QCAT will always allow representation where the party is a minor, or has impaired capacity. QCAT may allow representation for another reason, but permission must be given.

You will need to complete an Application for leave to be represented (Form 56). Permission to be represented is at the discretion of the QCAT.

If you are applying for a hearing you need to include details of your representative on your application form and attach the Form 56

Lawyers are not usually allowed to appear in QCAT, however if you need assistance you can appoint someone familiar with your case to represent you.

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 QCAT.

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

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What to take to the hearing

QCAT will make a decision based on the evidence presented by each party, so 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 emails, letters or forms you have sent or received.
- Signed affidavits by people who can provide evidence regarding the matters in dispute.

QCAT 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 practice 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 hearing you will need extra copies of your statement and evidence to give to the Adjudicator/Member/Magistrate and the other party.

Before the hearing, you may prefer to email or mail a copy of your evidence to the Tribunal Registry so it can be attached to the file. The Adjudicator/Member/Magistrate 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 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 is longer than one page, number each paragraph so you can easily refer to relevant information during the hearing.

Blank affidavit forms are available on the QCAT website.

Defending an application

If you are responding to a claim lodged by the lessor, agent or provider, you will be the respondent at the hearing. QCAT 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 Adjudicator or Member 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 QCAT 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 QCAT 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 Minor civil dispute – counter application form (Form 8), to lodge a counter application against the applicant. This applies when your claim arises out of the same situation, you want to dispute the applicant's allegations and request an alternative QCAT 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, complete the Form 8 and lodge at least three copies at the same registry where the original application was lodged. A counter application must be lodged as soon as practicable, and no later than seven (7) days after the original application is filed.

At the hearing

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

Some QCAT hearings begin with the Adjudicator or Member 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, your agreement will be made into an order. If you don't settle the dispute, the hearing will begin.

In some regional areas of Queensland, QCAT 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 Adjudicator or Member 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 Adjudicator or Member 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 Adjudicator or Member know at the start of the hearing.

Conduct of proceedings

QCAT must comply with the rules of natural justice. This means conducting the hearing which is appropriate to the circumstances and shows a lack of bias. There should be evidence to support the Tribunal's decision.

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

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

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

QCAT decision

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

A Tribunal decision is final and binding on all parties. You can ask the Adjudicator or Member 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 QCAT hearings. If the reasons for a decision were given orally, the Registry can provide you with an audio recording of proceedings.

Parties to proceedings can also order a copy of the full audio recording or a transcript. A fee may apply if a waiver is not granted.

Can the order be changed?

In limited circumstances, you can apply to QCAT 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 43), to apply to QCAT to have the matter re-opened, or to seek changes to the order. You must lodge this application 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 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 QCAT's final decision, or there are problems with interpreting, implementing or enforcing the decision.

When lodging a Form 43, 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. QCAT 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 (sometimes called a stay), to stop the original decision going ahead before the matter is reopened.

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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 QCAT applied the legislation.
- There has been a denial of natural justice or procedural fairness in the way QCAT conducted the hearing.

QCAT 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 QCAT 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 (Form 39), and lodge it with QCAT within 28 days of the hearing decision, or within 28 days of receiving written reasons for the decision. As of July 2022, the filing fee is between \$367 and \$734 .

All QCAT 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.

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

For free tenancy advice call:

1300 744 263

Open Mon – Friday 9am – 5pm

(extended hours to 7pm on Tuesdays and Wednesdays)

Tenants Queensland

Tenants Queensland (TQ) is a specialist community and legal service which has been providing services to and representing the interests of residential renters in Queensland since 1986. Queensland Statewide Tenant Advice and Referral Services (QSTARS) is managed by TQ to provide specialist tenancy advice, advocacy support and referral for Queensland renters and delivered in collaboration with partner organisations.

For more information and to access tenancy factsheets and videos visit www.tenantsqld.org.au or www.qstars.org.au.

For administration issues contact TQ on 07 3832 9447.

Residential Tenancies Authority (RTA)

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

The Queensland Civil and Administrative Tribunal (QCAT or the Tribunal)

To find your local Tribunal (except for Brisbane QCAT sits in the local Magistrates Court) or get QCAT forms visit www.qcat.qld.gov.au or call QCAT on 1300 753 228

Translating and Interpreting Service (TIS National)

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

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