

# 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 an 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. A minimum notice period of seven days applies.

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 assistance 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 (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 us 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. Matters are either urgent applications as defined in the Act, or 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 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.

## What's inside

- ★ **Dispute resolution services**
- ★ **Applying to the tribunal**
- ★ **How to contact QCAT**
- ★ **The hearing date**
- ★ **Who attends the hearing?**
- ★ **What to take to the hearing**
- ★ **Defending an application**
- ★ **At the hearing**
- ★ **Tribunal decisions**
- ★ **Offences and penalties**

### 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.

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

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.

Tenant fact sheets produced by



**Tenants Queensland**

**QSTARS**  
Funded by



# Resolving tenancy disputes

## 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. When you sign a fixed term agreement, you are signing a legal contract under which you agree to rent the place for an agreed minimum period. You should call us for advice if you are you are breaking a fixed term agreement to ensure you are aware of your rights and the correct process to follow. You may have to pay compensation to the lessor or provider if you end the agreement early.

For more information see the **You Want to Leave fact sheet**.

## 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:

- seven days' notice in general tenancies and moveable dwellings
- 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 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 compensation from you 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 fact sheet**.

## Leaving because a repair order has not been complied with

If the lessor does not comply with the repair order, you may be able to end your tenancy early. The process of applying for a repair order is different depending on whether the repairs are routine or emergency (for more information on the difference between routine and emergency repairs see the **Repairs and Maintenance fact sheet**).

For emergency repairs, you can apply for a repair order if you have been unable to contact the lessor or nominated repairer, or the repair was not completed in a reasonable timeframe. You can apply directly to the Tribunal for a repair order without going through RTA Dispute Resolution as this is considered an urgent application under law.

For a routine repair, you must first apply to the RTA for Dispute Resolution to try to resolve the repair issue with your lessor. If an agreement cannot be reached between you and the lessor, the RTA will give you a Notice of Unresolved Dispute. You can then apply to the Tribunal for a repair order.

The Tribunal can make a range of directions in granting a repair order, the most common being that your lessor must complete the repairs within a specified period of time. If the lessor or provider fails to do this, you can give your lessor an RTA Form 13 Notice of Intention to Leave for failure to comply with a repair order giving at least 14 days' notice. You can do this if you have a general tenancy agreement or moveable dwelling (long-term agreement).

## 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 via 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 including the reason why on the Form or in an attached letter. You can also phone the RTA. It can be useful to attach copies of letters, forms or other relevant documents to the Form 16.



## 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. If both parties are willing to participate in conciliation, the RTA will either host separate phone calls with each party or recommend a three-way teleconference.

## 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 Tribunal 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 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.

## 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 the Tribunal for a tenancy hearing and seek a final decision about the dispute.

## Applying to the Tribunal

The Tribunal 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.

At the Tribunal, each party must represent themselves. 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.

# Resolving tenancy disputes

## 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 the Tribunal, 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 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 at 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.

## Lodging your application

To apply to the Tribunal for a tenancy hearing, complete and lodge a Form 2 Application for Minor Civil Dispute – Residential Tenancy Dispute. This form is used for both urgent and non-urgent applications and is available from your local courthouse or online at [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

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

You can lodge your QCAT tribunal application and forms online via QCASE or in hardcopy in person or via post.

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, 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 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
- directing the RTA to refund 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.

It is a good idea to contact us for advice and assistance when completing a Tribunal application form.

## 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. Tribunal filing fees usually increase each year. You can check current fees on the QCAT website <https://www.qcat.qld.gov.au/resources/fees-and-allowances>

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 are applying for a hearing, have a low income and cannot afford the Tribunal 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 on a 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 the Tribunal the 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 you undue financial hardship.



## How to contact QCAT

**Address:** Level 11, 259 Queen Street, Brisbane QLD 4000  
**Post:** GPO Box 1639, Brisbane QLD 4001  
**Phone:** 1300 753 228  
**Email:** [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)  
**Website:** [www.qcat.qld.gov.au](http://www.qcat.qld.gov.au)

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

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](http://www.qcat.qld.gov.au)

## The hearing date

Once you have lodged your application to the Tribunal, you will need to wait to find out your hearing date. 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 amount of time you will need to wait varies depending on how busy the Tribunal is and how often they hold hearings (if you live in a regional area). The Tribunal prioritises urgent applications, as defined in the Act. Generally, the Tribunal hears urgent applications within a month, whereas you might have to wait much longer for a non-urgent application to be heard. You should refer to the QCAT website for an up-to-date estimate of the average timeframe for a hearing.

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 attend the hearing, unless you receive prior confirmation from the Tribunal that the adjournment has been granted. If you cannot attend in person, you can contact the Tribunal to make arrangements to attend by phone or provide a written response.

## Who attends the hearing?

At a Tribunal 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 person who will most likely hear the matter, review the evidence and make a final decision about the dispute.
- **The Applicant:** the person who made the Tribunal application.
- **The Respondent:** the person who is responding to the Tribunal application.
- **Witnesses:** for either the applicant or respondent.
- **Interpreters:** if requested.

Tribunal hearings are public, with a few exceptions.

All Tribunal 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 completing the Request for Reasons form and sending it to the Tribunal. If you require a transcript of the hearing, a fee applies.

### If you need an interpreter

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

### 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. The Tribunal will always allow representation where the person is a minor or has impaired capacity. The Tribunal may allow representation for another reason, but you will need to complete an Application For Leave to be Represented (Form 56). It is up to the Tribunal to decide whether to allow someone else to represent you.

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 the Tribunal, however if you need assistance you can appoint someone familiar with your case to represent you. You can also take a support person or advocate to the hearing to assist you. However, 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 hearing. The agent may have to show the Tribunal evidence they are authorised to act on behalf of the lessor or provider.

# Resolving tenancy disputes

## What to take to the hearing

The Tribunal 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.

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

### 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 may be 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. You should 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. 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 also is in your interest 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) or your evidence may show that the claims by the lessor, agent or provider are unreasonable or invalid.

As a respondent it is important to gather evidence and prepare your statement. You should file your statement and any evidence with the Tribunal and send copies to the applicant and any other parties at least 5 business days prior to hearing.

Keep in mind that you need to respond to the claim being made by the other party. Some things you might want to consider in preparing your statement and evidence is:

- 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 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 and you want to dispute the applicant's allegations and request an alternative Tribunal decision.

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 days after the original application is filed.

It is a good idea to seek advice from us before lodging a counter application to ensure you are following the correct process.

**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.**



## At the 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 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 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, 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 is 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

The Tribunal 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.

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 at a hearing.

The Tribunal must take steps to ensure that each party understands its practices and procedure, the nature of assertions being made and decisions 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 matter can be heard and decided in the person's absence.

## Tribunal decisions

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 will be provided to both parties.

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 unsure what it means.

## Written reasons for decisions

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

Audio recordings are made of all Tribunal 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 very limited circumstances, you can apply to the Tribunal to seek changes or corrections to the order or apply to have the matter reopened. You will need to use an Application for Reopening, Correction, Renewal or Amendment (Form 43), to apply to the Tribunal 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 and pay a filing fee.

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 the Tribunal'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 a medical certificate that states your reason for not attending the original hearing. The Tribunal will decide whether or not to agree to your application. It is a good idea to contact us for advice before lodging a Form 43 to ensure that you understand your rights and follow the correct process.

## Appealing a Tribunal decision

In very limited circumstances parties can appeal a Tribunal 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 decision simply because you are unhappy with the decision and want another opportunity to argue your case.**

# Resolving tenancy disputes

If you want to appeal a Tribunal decision, you will need to fill in an Application for Leave to Appeal or Appeal form (Form 39) and lodge it with the Tribunal within 28 days of the hearing decision, or within 28 days of receiving written reasons for the decision. You will also need to pay a filing fee. Filing fees for appeals can be expensive. For more information see <https://www.qcat.qld.gov.au/resources/fees-and-allowances>

You should contact us for advice before appealing a Tribunal decision to ensure that you understand your rights and follow the correct process.

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 Tribunal case file, or may refer the matter back to the Tribunal for a new hearing.

## Seeking a stay of decision

If you are appealing or reopening a Tribunal decision you may need to request a stay of the original Tribunal decision until the appeal or reopening is decided. This is because an appeal or reopening will not by itself prevent the decision from taking effect. For example, if the Tribunal made an order to terminate the tenancy and you wish to reopen the matter you should apply for a stay of the decision to prevent your tenancy from being terminated until the Tribunal determines whether to reopen 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.

You should contact us for advice on how to follow the correct process.

## Further help

### 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 – 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. QSTARS is managed by TQ and delivered in collaboration with partner organisations.

For administration issues contact TQ on 07 3832 9447 or visit [www.tenantsqld.org.au](http://www.tenantsqld.org.au)

## 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.

## Tenancy Facts

Tenancy fact sheets for renters are available at [www.qstars.org.au](http://www.qstars.org.au)

### Tenancy fact sheets include:

1. Renting in Queensland
2. Starting a tenancy
3. Rental bonds
4. Rent and other charges
5. Entry and privacy
6. Repairs and maintenance
7. You want to leave
8. Lessor ends the tenancy
9. Resolving tenancy disputes
10. Tenancy databases
11. Pets in Rental Properties

### Residential Tenancies Authority (RTA)

The RTA is the government authority. RTA tenancy forms are available online at [www.rta.qld.gov.au](http://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](http://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 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.