

## QCAT Practice Direction No. 4 of 2023

### APPLICATIONS FOR RESIDENTIAL TENANCY DISPUTES

#### INTRODUCTION

1. This Practice Direction is issued pursuant to s 226 of the [Queensland Civil and Administrative Tribunal Act 2009](#) (Qld).
2. The Practice Direction explains the process used in QCAT for residential tenancy disputes (“tenancy dispute”). It sets out what each party must do prior to and at the hearing so that QCAT can deal with the matter in a way that is informed, fair and efficient.
3. An application to start a tenancy dispute (called an initiating application) is made using a [Form 2: Application for minor civil dispute – residential tenancy dispute](#). You must complete all sections of the form in full, including for example, by listing each of your claims in Part E, Item 2 together with supporting evidence and, if you are seeking orders other than for compensation or about the rental bond, the details of each relevant Notice issued during the tenancy in Part E, Item 3.
4. Annexed to the Practice Direction are Checklists for common types of tenancy disputes. The checklists list the documents usually required by QCAT to resolve such disputes:
  - a) for an urgent application for a tenancy dispute (for example, for an order terminating a tenancy) – see Annexure A: Checklist for urgent applications;
  - b) for a non-urgent application for a tenancy dispute (for example, payment of a rental bond or compensation) – see Annexure B: Checklist for non-urgent tenancy applications.

#### DIFFERENT TYPES OF TENANCY DISPUTES

5. Sections 414A - 416 of the [Residential Tenancies and Rooming Accommodation Act 2008](#) (Qld),<sup>1</sup> set out how tenancy applications are made, including how ‘urgent’ and ‘non-urgent’ applications are dealt with.
6. An ‘urgent’ application is defined in s 415. It includes, for example, applications to set aside notices to leave if retaliatory and applications for termination. The lists of matters that are categorised as ‘urgent’ or ‘non-urgent’ under the Act, are set out in the [Form 2: Application for Residential Tenancy Disputes](#).
7. Separate applications must be filed for urgent and non-urgent matters.
8. Before you can bring an application for a non-urgent matter in QCAT, you must have made a dispute resolution request to the Residential Tenancies Authority and have

---

<sup>1</sup> All references to provisions of legislation are to this Act unless otherwise indicated.

received a notice of unresolved dispute.<sup>2</sup> QCAT does not have jurisdiction to determine your application for a non-urgent matter unless this has happened. You must provide a copy of the notice of unresolved dispute.

## WHAT DO APPLICANTS NEED TO DO?

9. To commence your matter you must file a [Form 2: Application for minor civil dispute – residential tenancy dispute](#) in QCAT. You can do this electronically by uploading your application to [QCase](#) or by filing it in person, or by post or email to QCAT.
10. Your application must include the full names of all parties and their contact details, including, if known, their email address, street address and telephone number. You must also include all your supporting evidence as attachments to your application.<sup>3</sup>
11. In tenancy disputes, QCAT provides the respondent with a copy of the application together with copies of the attachments.<sup>4</sup> It is important to ensure you have provided the correct email address for the respondent in the application (if you know it) so this can be done quickly by email.
12. If your application is for a tenancy dispute about an urgent matter (for example, for an order terminating a tenancy) you should consider including with your application the documents set out in **Annexure A**.
13. If your application is for a tenancy dispute about a non-urgent matter (for example, for payment of a rental bond or for compensation) you should consider including with your application the documents set out in **Annexure B**.
14. For applications about a different tenancy matter, you must decide which documents are relevant to the application and attach those documents to your application. Documents referred to in the Checklists annexed to this Practice Direction, such as the residential tenancy agreement, may be relevant, in addition to other documents.
15. If you want to rely on additional documents that you did not attach to your application, you MUST:
  - (a) page number, describe and separately upload the documents to QCase (preferably in a PDF text searchable format) or otherwise file them in QCAT; AND
  - (b) give a copy of the documents to the respondent at least five (5) business days before the hearing date (unless otherwise ordered by QCAT). QCAT will not do this for you. If you do not do this, the hearing might not proceed or might proceed without these documents being part of the proceedings. It is not enough to have uploaded them to QCase.

---

<sup>2</sup> Section 416.

<sup>3</sup> See [20]-[21] as to how these documents must be filed.

<sup>4</sup> QCAT must give a copy of the application to the respondent within 7 days: *Queensland Civil and Administrative Tribunal Rules 2009*, r 19, r 20.

## WHAT DO RESPONDENTS NEED TO DO?

16. As soon as possible after receiving the application, respondents MUST upload to QCase or otherwise file in QCAT, and give to each other party:
  - (a) any counter-application and/or response to the applicant's claims; and
  - (b) any relevant documents on which you intend to rely at the hearing of the application and any counter-application. The documents must be page numbered and separately uploaded in QCase or otherwise filed in QCAT.
17. If you wish to make a counter-application then you must use a [Form 8 – Minor Civil Dispute Counter Application](#). The Form 8 and any attachments must be uploaded to QCase or otherwise filed in QCAT. QCAT will not provide a copy of the counter-application or any relevant documents to the applicant: you must do this, and you must do this at least five (5) business days prior to the hearing. If you do not do this, the tribunal might proceed to the hearing without your counter-application proceeding. It is not enough to have uploaded them to QCase.
18. If you only intend to respond to claims made by the applicant in their application (and not file a counter-application), then you should ensure that any relevant documents on which you intend to rely on at the hearing of the application and your written submissions in response to the application are uploaded to QCase or otherwise filed in QCAT. QCAT will not give a copy of these documents to the applicant: you must do this, and you must do this at least five (5) business days prior to the hearing. If you do not do this, the tribunal might proceed to hearing without your documents forming part of the material in the proceeding. It is not enough to have uploaded them to QCase.
19. The documents you intend to rely upon in the hearing may include documents referred to in the Checklists annexed to this Practice Direction, and any other documents relevant to your response and/or any counter-application. If a document has already been included in the applicant's material which has been provided to QCAT and to the respondent, you do not need to provide it again.

## DOCUMENTS MUST BE PAGE NUMBERED

20. Any documents to be relied on at the hearing, whether uploaded to QCase or filed by email, by post or over the counter at the Registry, must be page numbered. This will enable individual documents to be more readily located at the hearing.
21. Documents uploaded to QCase MUST be uploaded separately and not as a bundle (see this [example](#)).
22. If it is impossible to upload the documents separately, then any bundle of documents uploaded MUST have an Index, each document must be separately titled, and the entire

bundle paginated sequentially from the first page of the bundle to the last page of the bundle, for example, from page 1 to 55.

23. It is very important that these instructions are complied with so that documents can be located quickly by the adjudicator and each party in the hearing.

## **PHOTOGRAPHS SHOULD BE IN COLOUR AND LABELLED**

24. Any photographs relevant to a claim made in a proceeding and relied upon at the hearing must be of high resolution and, preferably, in colour<sup>5</sup>. Parties should be selective with their photographs and only upload to QCase or otherwise file in QCAT, photographs relevant to a claim in the proceeding and to be relied on at the hearing. It is not necessary or desirable to upload or file multiple photographs showing the same thing.
25. Photographs **MUST** be labelled (that is, include a written description) and numbered to enable them to be identified in the hearing. For QCase, this is achieved by uploading photos separately and with unique file names.
26. QCAT will not print photographs for the parties. If a party wants to rely on hard copy colour photographs at the hearing the party should post the photographs to QCase or file them over the counter at the Registry and give a copy to each other party at least five (5) business days prior to the hearing. If you do not do this, the tribunal might proceed to hearing without the photographs forming part of the material in the proceeding. It is not enough to have uploaded them to QCase.

## **VIDEO FOOTAGE**

27. A party who wishes to rely upon video footage at the hearing must apply for leave to do so. The application must be made using a [Form 40: Application for miscellaneous matters](#).
28. If a party is given leave by the Tribunal, to rely on video footage, the footage must be provided to QCAT on a USB storage device and a copy given to each other party at least five (5) business days before the hearing. If you do not do this, the tribunal might proceed to hearing without the photographs forming part of the material in the proceeding. It is not enough to have uploaded them to QCase.
29. The USB must not contain footage other than that to be relied on at the hearing. It is not possible to upload video footage to QCASE.
30. The USB storage device **MUST** be accompanied with a signed electronic evidence declaration<sup>6</sup> which can be found [here](#).

---

<sup>5</sup> For QCase users, photographs can be scanned into PDF, but they should be scanned at no more than 300DPI and saved as reduced size non text searchable PDFs. Any document that is a picture can be saved as a JPG or in a similar format, as these files need not be text searchable.

<sup>6</sup> QCAT declaration form for the use of audio, video and/or photographs in tribunal proceedings.

## WHAT HAPPENS IF THESE REQUIREMENTS ARE NOT COMPLIED WITH

31. If a party fails to comply with the requirements for providing documents, photographs and/or video footage, QCAT might refuse to allow a party to rely on them at the hearing or adjourn the hearing.

## ENSURE YOUR CONTACT DETAILS ARE CORRECT

32. It is a party's responsibility to ensure their contact details provided to QCAT and to each other party are accurate.
33. Should a party's contact details change at any time throughout the proceedings, that party must update QCAT and each other party as soon as possible. The change can be advised to QCAT by completing a ['Change of contact details'](#) form online or by completing a change of contact details form through the QCase portal.
34. If a party is given leave to appear at the hearing remotely (by telephone or by video link) that party must ensure QCAT has the correct number for the telephone they can be reached on at the time of the hearing and their correct email address.

## WHO ARE THE CORRECT RESPONDING PARTY/PARTIES WHEN A TENANT BRINGS AN APPLICATION

35. Before a tenant occupies premises, the lessor or the lessor's agent must give the tenant either the lessor's name and address for service or the agent's name and address for service, if the agent is authorised by the lessor to stand in the lessor's place in a prescribed proceeding.<sup>7</sup> A 'prescribed proceeding' is any application a tenant or lessor may make to QCAT.<sup>8</sup>
36. If the agent's details are provided, the agent stands in place of the lessor for any residential tenancy proceeding in QCAT and:
  - (a) the proceeding may be taken against the agent as if the agent were the lessor; and,
  - (b) a tribunal may make an order against the agent as if the agent were the lessor; and
  - (c) settlement may be made with the agent as if the agent were the lessor.

That means that a tenant may sue the agent alone and, if an order is made against the agent, recover from the agent.

37. A tenant may, however, wish to sue the lessor instead. Whether a tenant sues the agent or the lessor or both is a matter for the tenant, that is, a decision the tenant needs to make. If the lessor is sued the lessor may apply for leave to be represented by the agent in the proceeding.

---

<sup>7</sup> *Residential Tenancies and Rooming Accommodation Act 2008* (Qld), s 206.

<sup>8</sup> *Residential Tenancies and Rooming Accommodation Regulation 2009* (Qld), s 23.

38. Any application to join, remove or substitute a party should be made using a [Form 45 – Application to be joined to a proceeding](#). The Form 45 and any accompanying submissions should be given to each other party in the proceeding.
39. The application for joinder will ordinarily be determined on the basis of the written submissions of the parties without the need for an oral hearing.

## HOW TO RECORD YOUR DETAILS IN QCASE IF YOU ARE AN AUTHORISED AGENT

40. If you are an agent you should refer to **Annexure C** for information as to how to enter your details in QCase to properly reflect your status in the proceedings.

## WHAT TO BRING TO THE HEARING

41. Parties **MUST** have either a paper copy of all documents filed in the proceeding, by them and the other party, or access to an electronic device (laptop, iPad or smartphone) that enables them to view the documents in the QCase court file. Many parties find it easier to have a paper copy of the documents with them in the hearing room, rather than trying to navigate an electronic device.
42. Parties requiring an internet connection in a tribunal hearing should ensure they have access to the [Queensland Courts Public Safety Network Guest \(PSNG\) Wi-Fi service](#) prior to attending a hearing.



*Hon Justice Kerri Mellifont  
President*

*9 November 2023*

## ANNEXURE A: CHECKLIST FOR TERMINATION APPLICATIONS

1. Parties **MUST** separately upload each document upon which they wish to rely at the hearing.
2. Any documents uploaded in QCase or otherwise filed at QCAT **MUST** be page numbered and titled.
3. If a party is unsure about what documents are relevant, they should seek advice. QCAT can not provide advice about this.
4. Examples of documents a party may wish to rely upon and, if they are relevant, should be included in an application, include a copy of:
  - (A) the tenancy agreement for the tenancy;
  - (B) each relevant Notice you have either sent or received (for example: Form 11, Form 12);
  - (C) a ledger for the tenancy;
  - (D) emails relevant to an issue in the dispute between the applicant and respondent;
  - (E) condition or inspection reports, if the condition of the premises is relevant to the application.

The agent or lessor must upload to QCase an updated ledger for the tenancy by 8.00am on the morning of the Hearing and email the tenant/s a copy of the updated ledger by 8.15 on the morning of the Hearing, as well as bring 3 hard copies of the ledger to the hearing.

## ANNEXURE B: CHECKLIST FOR NON-URGENT TENANCY APPLICATIONS

1. Parties **MUST** separately upload each document upon which they wish to rely at the hearing.
2. Any documents uploaded in QCase or otherwise filed at QCAT **MUST** be page numbered and titled.
3. If a party is unsure about what documents are relevant, they should seek advice. QCAT can not provide this advice.
4. Examples of documents a party may wish to rely upon and, if they are relevant, should be included in the Application or counter-application, include a copy of:
  - (A) the Notice of Unresolved Dispute;
  - (B) the dispute resolution request
  - (C) the tenancy agreement for the tenancy;
  - (D) each relevant Notice you have either sent or received (for example: Form 11, Form 12);
  - (E) a ledger for the tenancy;
  - (F) entry condition report, exit condition report and routine inspection reports;
  - (G) evidence of loss suffered (such as invoices);
  - (H) photographs;
  - (I) relevant correspondence.



## ANNEXURE C: INFORMATION FOR AGENTS USING QCASE

1. QCase will ask:

*Is the applicant being represented in the matter?*

If you are the applicant “in place” of the lessor, answer: NO.

You will be asked to enter your details as the Applicant and you will appear as Applicant in the court heading.