

Information for respondents

If you are named as a respondent in Consumer and Commercial Division proceedings, this fact sheet can help you decide what action to take.

Why have I been named as the respondent?

You are named as a respondent because the Applicant has a dispute with you. The Applicant has applied to NCAT to resolve the dispute which may result in enforceable orders being made against you if the Applicant can prove their claim.

Enforceable orders may include an order to pay money, an order terminating a tenancy agreement, or an order to carry out an action such as repair work.

As the respondent, you will receive a copy of the application form with the notice of hearing. The application form provides details of the orders applied for and why the orders are being asked for.

Why did NCAT accept the application?

NCAT accepts and processes all applications received, however the facts of the claim can only be considered by the Tribunal at a hearing. Therefore you will need to attend the hearing with your evidence (exceptions apply for home building, retail lease, and strata and community schemes matters).

It is important you attend the NCAT hearing so you can give your version of events

What are my options?

Settle the dispute

Consider contacting the applicant and try to settle the dispute. You will also be asked to attempt settlement through conciliation when you attend the hearing. If you settle the dispute, ask the applicant to withdraw their application so you no longer need to attend the hearing. The respondent cannot withdraw the application.

Go to the hearing

If you do not agree with the application, it is in your best interest to organise your documents that are relevant to the claim and then attend the hearing. At the hearing you will be given the opportunity to present your documents and give your version of events.

Do nothing

If you do nothing and do not attend the hearing, the application will likely be heard in your absence and enforceable orders may be made against you.

How can I prepare for NCAT?

Carefully read the information provided on the application form and notice of hearing. You need to consider:

- What is the applicant claiming and why?
- Do I agree with any part of the application?
- What evidence can I produce to the Tribunal to prove my version of events?
- Are there any compromises that can be made? Are there any offers I can make to settle the dispute?

Visit the NCAT website www.ncat.nsw.gov.au to learn more about preparing for your hearing.

Providing evidence

Matters before NCAT are decided on the evidence presented by the parties at the hearing.

You will need to bring evidence to the hearing to defend yourself against the applicant's claim. Your evidence should be relevant to your dispute.

Any documents and correspondence you give to the Tribunal will be provided to the applicant and any other parties. Do not provide any confidential information that you do not want disclosed.



Do I need a representative?

Parties are encouraged to represent themselves in NCAT Consumer and Commercial Division proceedings. Parties can apply for leave to be legally represented in more complex matters. In retail lease matters, parties are entitled to be represented without requiring leave from the Tribunal.

Can I attend the hearing by telephone?

If you live more than 2 hours from the hearing venue or you have other personal reasons that prevent you from attending in person, you can request to appear at the conciliation and/or hearing by telephone.

I need an interpreter

Professional interpreters are available free of charge upon request for parties who need language assistance during conciliation and hearing. Friends and family members are not permitted to act as interpreters.

Do I need legal advice?

If you are unsure about your rights and responsibilities you may want to seek some independent advice. Call **LawAccess NSW on 1300 888 529** for free information and referrals to services that provide legal advice and assistance.

Respondent's checklist

- Decide whether you agree with the application (partially or in full) or whether you totally disagree with it.
- Consider contacting the applicant before the hearing to attempt to settle the dispute.
- If you settle the dispute, ask the applicant to withdraw their application from NCAT before the hearing day.
- Prepare to go to the hearing and put forward your version of events.
- Seek advice or information on your rights or responsibilities.

Can I lodge a claim against the applicant?

You may be able to lodge a 'cross-claim' depending on the type of application. For example, you cannot lodge a cross-claim in a consumer claim or motor vehicles matter. Check the relevant legislation for further information.

If you are going to lodge a cross-claim, you should do this quickly so that the applications can be heard together at the same time. You should also seek independent legal advice as a cross-claim may delay the resolution of the dispute.

Subscribe with eConnect

With eConnect you can receive NCAT Consumer and Commercial Division notices of hearing, orders and correspondence by email.

To subscribe, visit the Consumer and Commercial Division section of the NCAT website www.ncat.nsw.gov.au, click on the **eServices** button and follow the prompts.

You will need your unique eNumber that can be located at the top of the notice of hearing or other NCAT correspondence addressed to you.

Contact NCAT

1300 006 228 | www.ncat.nsw.gov.au

For more information and assistance, visit the NCAT website www.ncat.nsw.gov.au or contact NCAT on **1300 006 228**.