

## THE RESIDENTIAL TENANCIES TRIBUNAL

### WHAT IS THE RTT?

'RTT' stands for 'Residential Tenancies Tribunal'. This is the body that has exclusive jurisdiction to hear and determine all disputes arising from tenancy agreements in the ACT. It is established and given its power by the Residential Tenancies Act 1997 ('the Act').

Tenants are able to take their lessors (landlords) to the RTT to resolve disputes. If you are a public housing tenant, your lessor is Housing ACT and you can take them to the RTT.

### THE RTT:

- Allows the public to sit in on proceedings;
- Is a Tribunal, not a Court (so it is relatively informal);
- Decisions are not made by a Judge or Magistrate, but by a person known as a 'Member', who sits alone;
- Can make orders for the payment of amounts of up to \$25,000; and
- Sits in the ACT Magistrates Court building.

### WHY APPLY?

There are really only two steps involved in any tenancy dispute. The first step is to negotiate with the other party and try to convince them of your view. The second and final step is litigation (taking legal action), and in the case of tenancy law, that means applying to the RTT.

What you are doing when you apply is asking that the RTT make

'orders'. You must therefore ensure that there is a good legal basis for the orders you are seeking. You need to refer either to a clause in your tenancy agreement that says the lessor 'shall do' something, or to a section of the Act that says 'the Tribunal shall order that' or 'the Tribunal may order that'.

Examples of orders you might seek include an order that your lessor arrange to have your heater repaired, or replace a rotten fence, or pay you compensation.

Everyone would of course prefer not to have to litigate, but sometimes the other party leaves you with no choice. Fortunately, if you do decide to go to the RTT, the process is not time consuming, costly, or difficult. Furthermore, you do not require legal representation in the RTT and can appear on your own behalf.

### WHAT STEPS ARE INVOLVED IN APPLYING?

#### 1. Get an RTT application form

To get an application form, you can:

- Call the RTT registry (02 6207 1740) and ask the registry staff to mail or fax you one;
- Drop by the Magistrates Court building (located at 4 Knowles

Place, Canberra City) and pick one up; or

- Go to [www.courts.act.gov.au/magistrates](http://www.courts.act.gov.au/magistrates) click on 'Residential Tenancies Tribunal' on the right hand side of the screen, then download and print what you need.

#### 2. Complete the Application Form

Under the heading 'Nature of relief sought' make sure you clearly state the orders you are asking the Tribunal to make.

#### 3. Attach a 'Statement of Particulars'

Your Statement of Particulars should set out:

- The facts that you say have occurred;
- The legal consequences (as you see them) that flow from those facts; and
- A request for the RTT to make orders to remedy the situation.

It is very important that your Statement of Particulars be comprehensive. Include letters that you have written to the other party, receipts, notes about phone conversations, a timeline of events, and anything else you think might be relevant. It is a good idea to put all these documents in date order and provide a date



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ordered summary of all the events and documents. This is called a 'chronology' and will help the Tribunal Member to get a clear understanding of all the events of your case.

#### **4. Lodge the Application Form, Statement of Particulars, and supporting documents**

Your complete application needs to be lodged with the RTT registry along with the appropriate application fee. At the time of writing, the fee was \$54 for most applications. The Tribunal's website has a Schedule of Fees.

If you are on a low income, you may be eligible to lodge your application without paying the fee. To apply to have the fee waived, you will need get a 'waiver of fee' form from the RTT registry, complete it, have it signed by a solicitor or justice of the peace, and lodge it along with the other documents.

#### **5. Wait to be contacted by the RTT**

The RTT endeavours to attend to matters within 14 days of lodgement of the application. The Registrar has the power to organise a pre-hearing conference, but this does not usually occur.

The RTT will send a complete copy of your application to Housing ACT so that they know what your case is about and can plan how they will respond to it. You will receive a notice by mail telling you when the RTT will hear your case. This is called the hearing date.

#### **6. Attend the hearing**

It is a good idea to be at the Magistrates Court a little early, say half an hour before the time stated on your hearing notice. Among other things, this will give you some time to negotiate

with the other party prior to the hearing. It may be that you can resolve your dispute even at this late stage.

It might be helpful to write down the points that you want to make before the hearing. This will give you something to refer to in case you forget what you want to say.

When your matter is called, you take a seat at the tables in the Hearing Room. The Housing ACT representative sits on one side, you on the other side and the Member sits in the middle. The Member usually introduces him/herself and invites the parties to introduce themselves. The proceedings are taped so you should position yourself close to one of the microphones and speak clearly.

It is intended that the hearing process be fairly informal and that the parties understand what is going on. If you find the language unfamiliar and confusing, you should ask the Member to explain anything you do not understand. The Member has a legal obligation to help both sides understand the process and to put their case.

In the hearing itself it is important that you are well presented and polite but firm. Don't speak out of turn, and don't lose your cool, but make sure that you get your chance to speak.

#### **The Tribunal's decision**

At the end of the hearing the Member may make an order (or orders). This is their decision on the matter. Shortly after the hearing you will get a copy of the order/s in the mail.

You can ask the Member to provide written reasons for their decision, either at the hearing or when you receive the orders in

the mail. Your request for written reasons must be made within 14 days of the date of the Tribunal orders. There is no time frame for the Tribunal to provide you with the written reasons for the decision — sometimes they will be produced quickly, but in some cases it can take months.

#### **WHAT NEXT?**

Hopefully, the RTT will have made the order/s that you want. If so, that is likely to be the end of the matter — breaching an RTT order can lead to substantial penalties, so parties are well advised to comply.

#### **WHAT IF I DON'T AGREE WITH THE DECISION?**

At this stage it's advisable to seek legal advice. You can appeal the decision to the ACT Supreme Court, but only on an error of law and with leave. The Supreme Court has the power to overrule a decision of the RTT. It also has the power to award costs against unsuccessful applicants.

The time limit for appeals to the Supreme Court is 28 days from the date of the Tribunal's orders. If you are considering appealing you should seek legal advice at the earliest opportunity to allow sufficient time to determine whether or not you have a case in the Supreme Court and, if so, to prepare your case within the time limit.

#### **Disclaimer**

This fact sheet contains general information available at the time of printing. It does not constitute legal advice. If you have a specific legal problem, please contact the Welfare Rights and Legal Centre's advice line on 6247 2177. The Welfare Rights and Legal Centre is entirely independent of Housing ACT. All assistance is free.

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