



Fact Sheet 11: Applying to ACAT

What is this factsheet about?

This factsheet provides information about ACAT, the 'ACT Civil and Administrative Tribunal'. It outlines what you should do if you have tried to resolve a dispute with your landlord but you have not been able to.

What is ACAT?

Under the *Residential Tenancies Act 1997* ('the Act'), ACAT is the body with the power to hear and determine all disputes arising from tenancy agreements in the ACT. Both lessors (also known as landlords) and tenants can apply to the ACAT to resolve disputes. If you are a public housing tenant, your lessor is Housing ACT.

A tribunal is similar to a court, but has less formal procedures and fewer strict requirements.

The ACAT:

- instead of judges, has members,
- allows the public to sit in on proceedings;
- can make orders for the payment of amounts of up to \$25,000; and
- is located on level 4 of the ACT Health Building at 1 Moore Street, Canberra City.

Why Apply to ACAT?

If you have been unable to enforce your rights under a tenancy agreement through negotiation, it may be necessary to apply to the ACAT.

Before you make an application to ACAT, you should think about what you want to get out of the process.

Section 83 of the Act lists the kinds of orders ACAT can make. These include

- a) An order restraining any action in breach of a tenancy agreement. This could include an order telling the landlord to stop coming over unannounced.
- b) An order requiring performance of a tenancy or occupancy agreement. This could include an order telling the landlord to fix a pipe or replace a window.
- c) An order requiring payment of an amount to a person. This could include an order for the landlord to pay you a sum of money for the inconvenience suffered as a result of their failure to repair something, or to pay you an amount for damage caused by their failure to repair. This kind of payment is generally known as compensation.

If you wish to end the tenancy because of the lessor's breach, you can make an application under s43 of the Act. You will need to show that the lessor breached the tenancy agreement and that the breach justifies termination of the tenancy.

Will you get what you want?

Usually, you will need to prove that the lessor breached the tenancy agreement. The lessor may have breached the tenancy agreement by failing to do something, or doing something they were not allowed to do. The responsibilities of a tenant and a lessor are outlined in the Standard Terms. These can be found at the back of the Act in Schedule 1. For information about lessor's and tenant's obligations, please see the factsheet entitled 'Repairs'.

It is also important that you can show that you have taken steps to try and enforce your rights before you applied to ACAT. For example, if you are alleging that the lessor failed to replace a broken pipe, you will need to show that you notified the landlord of the need to repair. To do so, you can provide copies of correspondence with your landlord including text messages, emails or a phone record. It's helpful to correspond with your landlord in writing if possible.

What are the steps involved in applying to ACAT?

1. Obtain an *Application for Resolution of Tenancy Dispute Form*

To obtain this form, you can:

- Call the ACAT Registry on (02) 6207 1740 and ask the registry staff to mail or fax you one;
- Pick one up from the ACAT Registry (ACT Health Building Level 4, 1 Moore Street Canberra City)
- Download one from ACAT's website at www.acat.act.gov.au.

2. Complete the Application Form

It is very important that statements in these sections are comprehensive. You may also want to attach 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.

You need to complete the Application Form in full, paying particular attention to the following sections:

'What is the dispute about?'

In this section you should set out the facts you allege to have occurred; and the legal consequences (as you see them) that flow from those facts. It is helpful to include a reference to the term of the tenancy agreement that you think the lessor has breached.

Example

I moved into the apartment on 5 January 2014. On 5 April 2014, I advised my landlord via email that the oven was broken and I couldn't use it. I have attached the email to the application. My landlord said they would arrange someone to come out and check the oven, but no one came out. On 20 April 2014, I called my landlord asking them to come and fix the oven and asking why no one had come to visit. They said they would follow up but again did not.

You may attach a page if there is insufficient space.

'Orders sought'

In this section of the application form, you should write the order(s) that you would like ACAT to make to remedy the situation. As mentioned above, you can look at s83 of the Act to determine what kind of order you are seeking.

Example:

I am seeking an order that the landlord must fix my oven. I am also seeking a reduction in rent from the time I notified my landlord until the time that they repair the oven.

Please note that this example is very simple. For more comprehensive advice specific to your situation, please call us.

Lodge the Application Form and Supporting Documents

Your completed application form needs to be lodged with the ACAT registry along with the appropriate application fee. At the time of writing, the fee was \$70 for most applications.

If you are on a low income, you can get a *Request about Payment of Fees* form from the ACAT registry, complete it, and lodge it along with the other documents. It is possible that the registrar will allow you not to pay the application fee.

For further information, ring ACAT or refer to the *Schedule of Fees* which can be found on ACAT's website at www.acat.act.gov.au.

3. Wait for ACAT to set a date for the hearing. You will be informed by mail of the hearing date.

You and the other parties concerned will be informed by mail of the hearing date and time; this is known as a *Notice of Hearing*. The hearing date is likely to be listed around 2 to 3 weeks after the lodgement of the application. ACAT sits most weekdays.

4. Attend the Tribunal

It is very important that you attend the Tribunal on the day requested.

Attending a conference

The matter may be scheduled for a conference. A conference is like a formal meeting, usually presided over by a Registrar or Member, with the aim to see if the matter can be resolved through negotiation without the need to go to Hearing. At this stage, orders can only be made if both parties consent to the orders. If you cannot reach an agreement, the matter will then proceed to hearing.

Attending a hearing

It's a good idea to arrive at ACAT a little early (about 30 minutes before your hearing is scheduled). 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 you go into the hearing so that you have something to refer to if you forget what to say in the heat of the moment.

Do I need to be represented?

No, but if you wish to you can be represented by a lawyer or another trusted person.

It is important to remember that the Tribunal is designed with self-represented litigants in mind, and the Tribunal Member will usually help both parties through the hearing. If you don't understand something, you can ask the Member to explain it to you.

Orders

At the end of the hearing the Member may make an order (or orders). If the order isn't in your favour, ask the Member to provide written reasons for the decision (this will be useful if you decide to appeal). To be safe, you should make this request in writing and give it to the front desk.

Shortly after the hearing you will get a copy of the order(s) in the mail.

What's Next?

Once an order has been made, that order is enforceable at law. If either party breaches the order, they risk substantial penalties.

If either party disagrees with ACAT's decision, they have the right to appeal within 28 days of the date of the decision. It is always a good idea to get legal advice before undertaking litigation, but it is especially so if you are thinking about appealing an ACAT decision. This is a more complex process and may involve a much bigger fee if you are not eligible for a fee waiver.

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 Canberra Community Law's advice line on 02 6218 7977.

Canberra Community Law is entirely independent of Housing ACT. All assistance is free.

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