

Preparing for Court

As a tenant you have rights and responsibilities under the *Residential Tenancies Act 1987* (the Act). This fact sheet explains the law in Western Australia about going to court and incorporates the changes made to the Act, which came into effect on 1 July 2013. Please note that while changes were made to the Act effective 1 July 2013, some of the old laws may still apply to you. If, for example, you entered into a lease prior to 1 July 2013, the old laws may still be valid. Accordingly we strongly encourage you to get appropriate legal/tenancy advice from your local tenancy service concerning the application of the new laws.

In the Residential Tenancies Act the landlord is referred to as the lessor.

At court, the Magistrates make their decisions and orders based on the evidence that the parties have provided so it is important for you to be prepared to proceed at your first hearing.

A Magistrate will not usually adjourn a matter to a later date merely because you are not prepared.

The Magistrate may grant you an adjournment if it is for a reason out of your control.

To prepare for the hearing, you should:

- Make a timeline of events that occurred throughout the tenancy.
- Prepare a file with all of your relevant documents (see examples below).
- Photocopy any letters or documents that you want the court to see. You will need three copies of each document you wish to give as evidence (one for yourself, one for the Court and one for the other party).
- Put the documents in a chronological order and make them easy for you to access quickly.
- If you are responding to an application (e.g.: lessor is claiming money from the bond that you do not agree with) prepare a statement on each item that is being claimed and include whether or not you agree and provide reasons why. You can also refer to your own documents here.
- Prepare a short statement on each document or piece of evidence – include why you think this evidence is relevant and what it proves or disproves.
- If you have witnesses that you intend to call – you can brief them on what questions you will be asking at the hearing. Also think of any questions that the Magistrate or other party may ask the witness.

RELEVANT DOCUMENTS

The relevant documents will differ depending on the application, but may include:

- A copy of your tenancy agreement;
- Breach notices;
- Termination notices;
- Notices or letters from the court;
- Photographs;
- Your ingoing and outgoing property condition report;

- Reports from routine inspections;
- Receipts or bank statements that show any rent payments;
- A copy of your tenant (rent) ledger;
- Correspondence between you and the lessor (emails, text messages, notes of conversations you have had);
- Medical letters or health reports (e.g.: mould issues);
- Support letters from friends or family;
- Support letters from services you are engaged with (e.g.: drug and alcohol counselling, family services or counselling, financial counsellors); and
- Quotes or invoices for any work that needs to be completed. If the lessor is alleging that you need to repair or replace any items, it is a good idea to get your own quotes so you know what costs are reasonable.

If the lessor has not provided you with some of these documents, you should request copies before court, or at the first court hearing.

In a minor case application, the court is not bound by formal rules of evidence. The Magistrate can accept any evidence that they believe is relevant and decide what weight, if any, to give that evidence.

WITNESSES

If you have any witnesses who can give relevant evidence, you can also ask them to attend court to support your case.

If you intend to call witnesses make sure they can attend on the date and provide them with the date, time and location of the hearing.

It is a good idea to meet with your witness before the first hearing to confirm why they are being called and what questions you will be asking.

Witnesses are not allowed to sit in on the hearing and will need to wait outside the court room until they are called.

You can summons a witness to attend court – this is highly recommended for any crucial witness, because it is usually possible to obtain an adjournment if a summonsed witness does not attend (on the other hand, the court is unlikely to grant an adjournment if a witness who has not been summonsed fails to turn up).

If you need to summons a witness to attend court, you should contact Tenancy WA or your local tenant advocate for advice.

FURTHER HELP – TENANTS’ ADVICE AND ADVOCACY

Tenancy WA provides state wide telephone advice services and referrals.

Metro: (08) 9221 0088 • Country: 1800 621 888 (free call) • www.tenancywa.org.au

Department of Commerce 1300 304 054

METROPOLITAN COMMUNITY LEGAL CENTRES	REGIONAL COMMUNITY LEGAL CENTRES
Fremantle CLC (Western Suburbs) 9432 9790 www.fremantle.wa.gov.au	Albany CLC (Great Southern) 9842 8566 www.albanyclc.com.au
Gosnells CLC (South Eastern Suburbs) 9398 1455 www.gosclc.com.au	AccordWest (South West) 9729 9000 www.accordwest.com.au
MIDLAS (Eastern Suburbs) 9250 2123 www.midlas.org.au	Geraldton Resource Centre (Mid-West/Gascoyne) 9938 0600 www.grc.asn.au
Northern Suburbs CLC (Northern Suburbs) 9440 1663 www.nslc.org.au	Goldfields CLC (Goldfields) 9021 1888 www.gclc.com.au
SCALES (South Western Suburbs) 9550 0400 www.law.murdoch.edu.au/scales	Kimberley CLS (Kimberley) 9169 3100
Sussex Street CLS (South Central Suburbs) 6253 9500 www.sscls.asn.au	Peel CLS (Peel) 9581 4511 www.peelcls.com.au
Welfare Rights & Advocacy Service (North Central Suburbs) 9328 1751 www.wraswa.org.au	Pilbara CLC (Pilbara) Karratha - 9185 5899 Newman - 9175 0148 Roebourne - 9182 1169 South Hedland - 9140 1613 www.pcls.net.au
	Wheatbelt CLC (Wheatbelt) 9622 5200 www.wheatbeltclc.com.au

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Reviewed June 2016