



Magistrates Court of Western Australia

Civil Jurisdiction

Fact Sheet 53 – Residential Tenancy Applications

This fact sheet provides general information for parties on how to complete and lodge a Residential Tenancy Application.

What is a Residential Tenancy Application?

A Residential Tenancy Application is an application under the Residential Tenancy Act 1987 (the Act) in respect to a residential tenancy agreement. Many applications under the Act are made to the Magistrates Court, however some applications are made directly to the Commissioner for Consumer Protection.

Where a lessor or a tenant under a residential tenancy agreement claims that a breach of the agreement has occurred or that a dispute has arisen under the agreement, the lessor or tenant may apply to the Magistrates Court for an order. Applications lodged with the Magistrates Court include applications for termination of residential tenancy agreements, claims for damages (including unpaid rent), and appeals against a decision of the Commissioner.

What is a residential tenancy agreement?

A residential tenancy agreement means any agreement (written or verbal) under which a person (the lessor) grants another person (the tenant) a right to occupy a residential premises, or part of residential premises.

The Residential Tenancies Act 1987 does not relate to:

- Boarder/lodger agreements
- Holiday accommodation (up to three consecutive months in each 12-month period)

- Retirement villages/nursing homes
- Long-stay caravan parks/resident parks

How do I commence a Residential Tenancy application?

Applications to the Magistrates Court are lodged electronically in the eCourts Portal <http://ecourts.justice.wa.gov.au/eCourtsPortal/> with the Magistrates Court registry that is closest to the rental premises.

Information regarding lodging a request with the Commissioner for Consumer Protection, including for release of a security bond, can be found at <http://www.consumerprotection.wa.gov.au/bonds>.

Completing the application

Lessor

The application should name all the parties who appear on the residential tenancy agreement as "Lessors". You cannot put the real estate agent's name as the Lessor.

Tenants

The application should name all the parties who appear on the residential tenancy agreement as "Tenants".

What information do I need to provide?

You will need the details of your residential tenancy agreement, the names and addresses of the parties, bond details (if applicable), the dates of any notices issued and the amounts of any damages.

You should upload any documents that support your application. This may include a copy of the lease, any notices issued, payment schedules, photos or receipts. If you are appealing a decision of the Commissioner, you must upload a copy of the decision.

All documents should be clearly named according to the content.

The Court may ask you to provide additional supporting documentation before your application can proceed.

What should I put in the reasons for application?

You should state why you are bringing the application to Court. For example, stating that a party has failed to comply with a breach or termination notice that was issued.

If you are claiming damages, you should indicate what you are claiming damages for and the amount of the claim. The court application fee is automatically added at the end of the lodgment, so you don't need to include it with your claims.

What should I put as the order required?

There are some standard options to choose from in the online lodgment. If none are relevant to your application, then use the free text box and type a short summary of what order you want the Court to make.

How does my application get listed?

Depending on the type of application, you may be given the option of selecting your preferred hearing date at the Court registry closest to the rental premises. The hearing date you select is a request only and subject to change by the Court.

Some applications are only given a hearing date if the Respondent lodges a dispute to the application.

Do I need to serve the other parties?

No. The Court serves the application once a Court date is confirmed. Service is generally done by post to the addresses provided in the application. If the address of the Respondent is unknown to the Applicant, it can be served by e-mail or be advertised on the eCourts Portal.

What can I expect at the first hearing?

If your application is listed for a hearing, it can be before either a Magistrate or a Registrar. The Magistrate or Registrar will discuss the application with the parties and may attempt to resolve the issue. If the parties can agree, then orders can be made by agreement. If they cannot, then the matter may get

listed for a trial. A Magistrate may also refer to the matter to a Registrar in private to resolve the issue or adjourn the matter to another date.

If a party does not appear at a hearing, the application can be heard and determined in their absence.

Can I have representation?

A party can be represented by the property manager for the premises or a tenant's advocate. The property manager or advocate must provide the Court with a **Form 24 – Authorisation for an Agent to Present a Party's Case**.

A person cannot be represented by a lawyer unless all the parties agree, one of the parties is legally qualified, or the court is satisfied one of the parties is unable to represent themselves without one.

For Further Assistance

The Department of Local Government, Industry Regulation and Safety gives free advice to all parties in a residential tenancy agreement, looks into complaints, and, wherever possible, helps settle them. If you have any doubts about whether your rental situation is covered by the Act please contact the Consumer Protection Advice Line on 1300 304 054 (for the cost of a local call state wide) 8.30 am – 5.00 pm weekdays.

- Website: www.lgirs.wa.gov.au
- Email: consumer@lgirs.wa.gov.au

This is a guide only. The content is subject to change.

If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.