

Subject **Re: Clarification**
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Hello Jo, thanks for responding. I agree there is a lot of material to digest and I understand if you haven't had time to go through it.

To make some minor clarification to your dot points in the process so far:

- The termination order was issued on 26 April, but the effective dates are as you mentioned. The Warrant can only be executed between 8am and 6pm on weekdays, therefore it expires at 6pm next Tuesday.
- The fourth point is correct, but QCAT may make a decision on Friday (after 4pm), and although this is unlikely, it is still possible. It all depends on when this decision is made and, if they decide to refuse the stay, how quickly that can be communicated to the police. The Department of Housing is not required to be present when the Warrant is executed; any police officer can execute it during its effective window and had possession to the Department at the earliest convenient time thereafter.

The front yard was the crux of the Department's concerns. This was cleaned up at Easter and has remained in that state since then.

Regarding your two questions:

1 a) QSTARS have been helpful to some degree but I get the sense that the "uphill battle" facing me makes them not want to get involved in what could be "flogging a dead horse". Another legal service described my case as a *fait accompli* and advised me to immediately get out before I lost everything.

1 b) There is no formal, organised relationship between me and QSTARS. I have contacted them for assistance sometimes but, as you pointed out, they are often busy. I would have appreciated some legal guidance when drafting my Affidavit to support my appeal, but QSTARS were just too busy to help at the time.

2) It is no secret that I despise the creation of QCAT, although I understand why it was done. I have been involved in dozens of QCAT hearings over the last decade and it appears to be rather amateurish in its processes. No greater example of this would be in a minor debt claim where a Justice of the Peace, acting as the adjudicator in the matter told me that a debt owing on a contract signed more than six years ago was out of time under the Statute of Limitations. I didn't have the Limitations Act in front of me at the time but

within an hour of arriving home I had pulled it up and found the section which proved me right and him wrong. The age of the contract is irrelevant, it's the age of the debt that is subject to limitation, and in that case, the debt was only three years old. Justice denied, but at \$300 to appeal, why bother? That kind of basic error of law would never have happened in Magistrates Court.

In the current case, I was led to believe that the appeals process began with a request for reasons, which QCAT has 45 days to provide. An appeal could be lodged before receiving those reasons, but the reasons themselves may provide valuable support for grounds to appeal, and therefore it seemed prudent to wait for them. I duly lodged an application to stay decision and a request for reasons. 4 hours later the application to stay was refused, which perplexed me somewhat. Over the next couple of days, I reasoned it must have been because I did not lodge an appeal with the application to stay. I realised I was being forced to fire my guns much earlier than I expected. I had to show all my cards without being provided all the relevant information (the reasons for the original decision). I noted that the Warrant was still active and could be executed within days, so I understood that I had to act quickly and lodge something on Monday. I cobbled together an appeal the best that I could. I hastily transcribed my covert recording of the QCAT hearing on 26 April and learned many things I did not immediately pick up on at the time. This immensely helped me to prepare my Affidavit, as I realised there could be evidence to challenge the hearing on the grounds of natural justice. As I had very little else to go on, I pursued that line of attack. The actions of the Department in the timing of presenting their evidence was also something that irked me. Many of the Department's communications are sloppy. Unsigned letters are common, so it was not a surprise that their Affidavit was not signed.

Next steps.

As you correctly summarised, it all depends on what happens next Monday/Tuesday. The way I understand it, if QCAT has not made a decision, or if they grant the stay before Tuesday, the current Warrant will expire and the appeal will decide whether or not another Warrant is issued. If QCAT refuses the stay before then, I'll be removed immediately and the appeal will be redundant. I assume QCAT is aware of these possibilities. It is quite fraught now actually, because last week, I did have a specific time when the Warrant was going to be executed, but now I don't know if/when that will happen, and I'm likely to get little or no warning if it does.

I will be moving some of my most valuable things out over the weekend as a precaution, but I won't have time to move everything.

Thank you for your interest Jo. I understand if you are not able to assist but any advice is welcome.

Regards,

David Barker