



For office use only	
Case number	MCDT693/22
Date	23-03-22
Registry	BRISBANE
Fee	WAIVED
Date paid	
Receipt number	

Application for minor civil dispute – residential tenancy dispute

Application fees apply – visit qcat.qld.gov.au/resources/fees-and-allowances for details

Part A TYPE OF APPLICATION

You must indicate on **Appendix 1** (at the back of this form) the type of application you are making.

Appendix 1 lists what are classed as urgent or non-urgent applications under the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld).

Urgent Applications

If your application is classed as urgent according to the tables in Appendix 1, you can apply directly to QCAT.

Non-Urgent Applications

If your application is classed as non-urgent according to the tables in Appendix 1, you need to make a dispute resolution request to the [Residential Tenancies Authority](#) (RTA) and receive a **Notice of Unresolved Dispute** before you can apply to QCAT. You **MUST** provide the conciliation number from your RTA **Notice of Unresolved Dispute**.

RTA conciliation number:

Is there an existing/related tenancy case before the Tribunal?

☐ Yes – please fill out details below:

QCAT case number

Registry (the QCAT registry or Magistrates Court where the original application was made)

☒ No – continue to Part B



Part B

APPLICANT'S DETAILS *(full contact details must be supplied) (for multiple applicants please attach details on a separate sheet)*

Applicant type: *(please tick one)*

- ☐ Tenant
 ☒ Lessor (landlord)
 ☐ Agent for lessor or provider*
- ☐ Resident
 ☐ Provider (rooming accommodation)
 ☐ Other

Applicant details:

Name State of Queensland through the Department of Communities, Housing and Digital Economy

Current Postal Address

Fortitude Valley Housing Service Centre, PO BOX 445

Suburb Fortitude Valley **State/Territory** Queensland **Postcode** 4006

Contact details *(MUST be provided)*

0448 700 522 (07) 3034 6514 hhscsfortitudevalley@chde.qld.gov.au

Mobile Alternative number Email

Do you identify as Aboriginal or Torres Strait Islander?

- ☒ No
 ☐ Yes, Torres Strait Islander
- ☐ Yes, Aboriginal
 ☐ Yes, both Aboriginal and Torres Strait Islander

**An agent can only make this application if the agent is authorised in writing, by a separate letter or in the residential tenancy agreement, to stand in the lessor or provider's place in a proceeding under s206 or s248 of the Residential Tenancies and Rooming Accommodation Act 2008 (Qld).*

Applicant type: *(please tick one)*

- ☐ Tenant
 ☐ Lessor (landlord)
 ☐ Agent for lessor or provider*
- ☐ Resident
 ☐ Provider (rooming accommodation)
 ☐ Other

Applicant details:

Name

Current Postal Address

Suburb **State/Territory** **Postcode**

Contact details *(MUST be provided)*

Mobile Alternative number Email

Do you identify as Aboriginal or Torres Strait Islander?

- ☐ No
 ☐ Yes, Torres Strait Islander
- ☐ Yes, Aboriginal
 ☐ Yes, both Aboriginal and Torres Strait Islander

**An agent can only make this application if the agent is authorised in writing, by a separate letter or in the residential tenancy agreement, to stand in the lessor or provider's place in a proceeding under s206 or s248 of the Residential Tenancies and Rooming Accommodation Act 2008 (Qld).*

Part C

RESPONDENT'S DETAILS (full contact details must be supplied) (for multiple respondents please attach details on a separate sheet)

Respondent type: (please tick one)

- ☒ Tenant
 ☐ Lessor (landlord)
 ☐ Agent for lessor or provider*
 ☐ Resident
 ☐ Provider (rooming accommodation)
 ☐ Other

Respondent details:

Name

Current Postal Address

Suburb

State/Territory

Postcode

Contact details (MUST be provided)

Mobile

Alternative number

Email

*An agent can only be nominated as the respondent if the applicant is a tenant or resident, and the agent is authorised in writing, by a separate letter or in the residential tenancy agreement, to stand in the lessor or provider's place in a proceeding under s206 or s248 of the *Residential Tenancies and Rooming Accommodation Act 2008 (Qld)*.

Respondent type: (please tick one)

- ☐ Tenant
 ☐ Lessor (landlord)
 ☐ Agent for lessor or provider*
 ☐ Resident
 ☐ Provider (rooming accommodation)
 ☐ Other

Respondent details:

Name

Current Postal Address

Suburb

State/Territory

Postcode

Contact details (MUST be provided)

Mobile

Alternative number

Email

*An agent can only be nominated as the respondent if the applicant is a tenant or resident, and the agent is authorised in writing, by a separate letter or in the residential tenancy agreement, to stand in the lessor or provider's place in a proceeding under s206 or s248 of the *Residential Tenancies and Rooming Accommodation Act 2008 (Qld)*.

Part D RENTAL PROPERTY

Address of the rental property

5/25 Waverley Road

Suburb Taringa

State/Territory Queensland

Postcode 4068

Type of agreement

☐ Fixed term (e.g. 6 months). The date when fixed term expires/expired:

☒ Periodic (e.g. week-to-week)

Rental bond number

Rental bond amount

\$

Real estate agency details

Agency name:

Agency address:

Is the rental bond currently held by the Residential Tenancy Authority (RTA)?

☐ Yes

☒ No

Part E DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

1. What order/s do you want the Tribunal to make?

An order requires a party do a certain named thing.

Refer to **Appendix 1** of the attached guide for the sections of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) and the type of orders that can be made. If there is insufficient space, please attach additional pages.

Section Order/s you are seeking

s293	Termination for failure to leave

2. List of claims (If there is insufficient space please attach additional pages)

If you are claiming for compensation (which includes rent) or the rental bond, you must also complete the following list of claims and **attach all relevant documents (including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs)**.

	Description of claim	Amount		Evidence to support claim (e.g. receipt)
1		\$		
2		\$		
3		\$		
4		\$		
5		\$		
6		\$		

The total amount of my claim is: \$

3. List of notices

If you are seeking orders other than compensation or the rental bond, you must also complete the following table and attach any relevant notices.

Notice	Date issued/ received DD/MM/YY	Reason for notice (e.g. rent arrears, repairs, damage etc.)	Expiry date DD/MM/YY
Notice/s to remedy breach (RTA form 11)	16/11/2021	Property Condition	30/11/2021
Notice/s to remedy breach (RTA form 11)	02/02/2022	Property Condition	16/02/2022
Notice/s to leave (RTA form 12)	23/02/2022	Unremedied Breach	09/03/2022
Notice of intention to leave (RTA form 13)			
Other (specify):			

4. What are the reasons the order/s should be made?

You must explain why you are asking for the orders by providing as much detail as possible. If you do not provide this information your application may be dismissed. If there is insufficient space, please attach additional pages.

The Department of Housing issued Mr Barker with a Notice to Leave for Unremedied Breach under Section 184 (c). The notice was issued on 23 February 2022 and expired on 9 March 2022. Mr Barker failed to vacate his property by the expiry period of the notice so the department is seeking a Termination Order and Warrant of Possession under Section 293 to repossess the property.

The Notice to Leave was issued because Mr Barker failed to remedy a previous Notice to Remedy Breach under section 185(a) which was issued on 2 February 2022 and due to expire on 16 February 2022. Mr Barker had previously been issued a Notice to Remedy on 13 October 2021 and 16 November 2021. In addition, Mr Barker has received multiple complaints against his tenancy in relation to his property condition from department tenants and private owners. Mr Barker has received several warning letters to address the property condition which he has actively disregarded. Mr Barker has not engaged with the department or support services to rectify the unsatisfactory property condition.

The department is unable to sustain Mr Barker's tenancy as he not engaged with staff and acknowledged the issues at his property. The department is seeking a Warrant of Possession and Termination Order as Mr Barker has failed to leave the premises at 5/25 Waverley Rd, Taringa.

Part F ASSISTANCE AT THE TRIBUNAL HEARING

Will you require an interpreter at the hearing?

- ☐ Yes - please specify language or Auslan:
- ☒ No

Do you have any of the following needs?

- ☐ wheelchair/mobility access ☐ speech impairment
- ☐ hearing impairment/loss ☐ vision impairment/loss
- ☒ other

If you have ticked any of these boxes, please provide details below.

As per previous QCAT hearing 2508/20 adjudicator LeMass requested if an application to QCAT was submitted in the future under the same reasons, the matter should be allocated to him.

CHECKLIST

- ☒ I have completed all of the questions on this application.
- ☒ I have provided the correct number of copies of the application form and attachments (*that is, a copy for each party, plus one for the Tribunal*).
- ☒ I have attached a copy of the tenancy/rooming accommodation agreement including all special terms.
- ☒ I have attached copies all relevant documents, including but not limited to, any agreements, contracts, invoices, receipts and colour copies of photographs.
- ☒ I have listed every person named in the tenancy/rooming accommodation agreement that is part of this application.
- ☒ I am aware that the prescribed fee must be paid at time of lodgement.
- ☒ I am ready to proceed with this application.

WARNING

Section 216 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld) makes it an offence for a person to knowingly give the registry documents containing false or misleading information. Maximum penalty for such an offence – 100 penalty units.

Sign and date here (if more than one applicant is named, then all must sign)

The information in this application is true to the best of my knowledge.

Applicant/s sign here

M Bresford

Date/s

23.03.22

Print your name/s here

MOLLIE BRESFORD

Lodgement Details

Deliver to:

Queensland Civil and Administrative Tribunal
Floor 11, 259 Queen Street
Brisbane Qld 4000
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

Mail to:

Queensland Civil and Administrative Tribunal
GPO Box 1639
Brisbane Qld 4001
OR
your local Magistrates Court.
To find your local courthouse visit:
courts.qld.gov.au/contacts/courthouses

NOTE: If you want someone to represent you who is not an agent, then you must complete [Form 56 - Application for leave to be represented](#). You are not required to seek leave if you are a child or a person with impaired capacity. Visit the QCAT website for more information about [legal advice and representation](#).

INSTRUCTIONS FOR COMPLETING FORM 2

Application for minor civil dispute – residential tenancy dispute

QCAT decides residential tenancy disputes between:

- tenants and landlords (lessors) or agents
- residents and providers of agents for rooming accommodation.

Identify and naming parties

The applicant and respondent must be named correctly. If the party is not an individual then you must use the precise/exact company name, a business name (whether it is registered or not, including real estate agencies), or the name of a State agency or department. To ensure that you are taking action against the right organisation you **MUST** include the correct ABN/ACN for the company or business name. If you do not correctly name a party you may not be able to enforce any order made against them if you succeed in your claim.

Visit the QCAT website for information on [identifying and naming the parties](#) or contact the Australian Securities and Investment Commission (ASIC) for business name and company information. A search fee may be charged.

More than one applicant or respondent can be named in an application. If there is more than one, then everyone **MUST** be named. If there is not enough space to include additional parties, you can attach the contact details (name and address details) on a separate sheet of paper to the application.

Fees

You must pay the prescribed application fee when lodging your application. Visit the [QCAT website](#) for application fees.

Cash payments can be made in person at the QCAT Brisbane registry or your local Magistrates Court.

Cheque or money order payments are to be made out to 'Department of Justice and Attorney-General'.

Credit card payments can be made by submitting a [Credit card payment authorisation form](#) with your application and can only be accepted by post or in person.

You may apply to QCAT for a waiver of the fee on the grounds of financial hardship. To apply, you **MUST** complete and lodge [Form 49 - Application for waiver of fees by reason of financial hardship](#). If you are eligible for a waiver you will not be required to pay the fee.

Lodging your application form

Before you lodge your application with QCAT you must make **two (2)** photocopies of the application and all attached supporting documents and lodge these together with your original application. An extra copy is required for each additional respondent. If you file your documents in person or by post, you must include a stamped self-addressed A4 envelope.

Delivering copies to the respondent

QCAT must give a copy of the application to the respondent/s.

Joining applications and counter applications

Both parties involved in the residential tenancy dispute can make an application against the other party for the same agreement. For example, a tenant may claim the bond and the landlord may make a claim for compensation.

Where this occurs applications may be joined. This means the claims may be heard and decided together. To make a counter application against the original application, complete and lodge [Form 8 - Minor civil dispute - counter application](#). Visit the [QCAT website](#) for more information about responding to an application.

Legal advice and representation

QCAT staff cannot provide legal advice. All parties involved in a matter before QCAT must usually represent themselves unless leave to be represented has been given.

Information about where to seek legal advice is available at [Where to seek legal advice](#).

Witnesses

If you have a witness whose evidence you rely upon to support your claim, that person should complete an affidavit setting out their evidence and attach it to your claim. Your witness may be required to answer questions at the hearing. If the witness cannot attend the hearing in person, they **MUST** be available by telephone.

Withdrawing an application

An application can be withdrawn if you no longer wish to proceed to have the dispute decided by the Tribunal. An application can be withdrawn at any time prior to the final hearing and determination of the application by lodging a [Form 58 – Application for leave to withdraw an application or referral / Notice of withdrawal of application or referral](#) online. Visit the QCAT website for more information on how to [withdraw an application](#).

Protecting your privacy

We collect your contact details to ensure QCAT proceedings comply with the *Queensland Civil and Administrative Tribunal Act 2009* (Qld). We may contact you to help evaluate QCAT operations. You do not have to participate in feedback or surveys. If you do participate, no identifying information will be published. We will not disclose your contact details or any other personal information to a third party unless required by law.

Contact us

For information about the application process or going to the Tribunal visit the [QCAT website](#).

Appendix 1

Orders under the *Residential Tenancies and Rooming Accommodation Act 2008*

An application should request at least one of the orders listed below. Refer to the section of the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) (the Act) for more details. Electronic and printed versions of the Act and Regulation are available from the Office of the Queensland Parliamentary Counsel website at legislation.qld.gov.au.

You **MUST** tick the box for each order you are seeking.

RESIDENTIAL TENANCY AGREEMENTS

URGENT APPLICATIONS AND ORDERS

✓	Section	Orders that QCAT can make	Who can apply?
	359	Compensation for abandonment of a property	lessor
	363	The sale or disposal of goods abandoned on premises	lessor
	357	Order to declare premises were abandoned	lessor
	363	Entitlement to funds from sale of goods left in premises	lessor
	358	Compensation after tenant remains in possession	lessor
	277	Determine day agreement ends after death of sole tenant	lessor
	293	Termination for failure to leave	lessor
	298	Termination of short tenancy (moveable dwelling) due to incompatibility	lessor
	294	Termination for failure to leave as intended	lessor
	356	Dispute on an abandonment termination notice	tenant
	361	Review of an abandonment order	tenant
	221	The carrying out of emergency repairs	tenant
	60	Order about lessor not providing agreement or taking amounts from prospective tenants	tenant
	191	Order about failure to comply with maintenance obligation	tenant
	292	Application to set aside notice to leave without ground	tenant
	460	Breach of listing on tenancy database	tenant
	461	Incorrect or unjust listing on tenancy database	tenant
	462	Proposed listing on tenancy database	tenant
	309	Application for termination for failure of lessor to remedy breach	tenant
	227	Relocation because of emergency or for health or safety reasons	tenant, lessor
	220	Payment for emergency repairs	tenant, lessor
	300, 316, 323	Application for interim order about damage or injury	tenant, lessor, domestic associate, occupier
	201	Order about rules of entry	tenant, lessor

RESIDENTIAL TENANCY AGREEMENTS

URGENT APPLICATIONS AND ORDERS *(continued)*

✓	Section	Orders that QCAT can make	Who can apply?
	295, 310	Termination for excessive hardship	tenant, lessor
	296, 311, 312, 321, 322	Termination for damage or injury	tenant, lessor, domestic associate, occupier
	297, 313	Termination for objectionable behaviour	tenant, lessor
	299, 315	Terminated for repeated breaches	tenant, lessor
	365	Application about goods left on premises	interested person
	245, 246	To be recognised as tenant	domestic associate, occupier
	233	Park – proposal to change park rules	objector, park owner
	455	Park – exclude person from park	park owner
	418	Declaration that the Act does or does not apply to an agreement	tenant, lessor

NON-URGENT APPLICATIONS AND ORDERS

✓	Section	Orders that QCAT can make	Who can apply?
	155	Declaration amount is not rental bond	lessor
	239	Allow tenant to transfer or sublet	tenant
	430	Dispute between co-tenants about rental bond	tenant
	94	Rent decrease – premises are partly unfit to live	tenant
	92	Rent increase is excessive	tenant
	49	Set aside short tenancy extension statement	tenant
	71	Significant change in subsequent agreement	tenant
	314	Termination for incompatibility	tenant
	419	About breach of agreement	tenant, lessor
	213	About lock or key	tenant, lessor
	227	About relocation	tenant, lessor
	424, 426	Dispute ground in notice	tenant, lessor
	429	General dispute	tenant, lessor
	64	Have written agreement given and signed	tenant, lessor
	169	Loss of amenity, a service or facility	tenant, lessor
	97	Payment of apportionment on the ending of agreement	tenant, lessor
	169	Service charge	tenant, lessor
	137	Tribunal order for payment of bond	tenant, lessor
	162	About holding deposit	payee, payer
	243	To be recognised as tenant because tenant left	occupant

ROOMING ACCOMMODATION AGREEMENTS

URGENT APPLICATIONS AND ORDERS

✓	Section	Orders that QCAT can make	Who can apply?
	395	Abandonment – entitlement to receive money given to public trustee	provider
	273	Declare proposed house rule is reasonable	provider
	366	Determine day agreement ends after death of sole tenant/resident	provider
	373	Set aside notice to leave/notice terminating agreement without ground	resident
	264	Order about rules of entry	resident, provider
	377, 383	Termination – excessive hardship	resident, provider
	376, 382	Termination – repeated breaches	resident, provider
	418	Declaration that the Act does or does not apply to an agreement	resident, provider

NON-URGENT APPLICATIONS AND ORDERS

✓	Section	Orders that QCAT can make	Who can apply?
	274	Declaration house rule is unreasonable	resident
	428	Dispute about entry to resident's room or removal of resident	resident
	430	Dispute between co-residents about rental bond	resident
	107	Residents absence	resident
	419	About breach of agreement	resident, provider
	252	About lock or key	resident, provider
	425,427	Dispute ground in notice	resident, provider
	429	General dispute	resident, provider
	109	Payment of apportionment on the ending of agreement	resident, provider
	106	Rent decrease – loss of amenity, a service or facility	resident, provider