

# Preparing for hearing

If you have received a notice of hearing from NCAT's Consumer and Commercial Division for conciliation and/or hearing, the following information can help you prepare for your hearing.

## What happens at the hearing?

The Tribunal Member will ask questions about the application, and both parties show their evidence and ask questions of each other. The Tribunal Member may ask that evidence be sworn or affirmed. After each party has given their evidence, the Tribunal Member will make a decision based on the evidence presented and in accordance with the law.

### What is a Tribunal Member?

Tribunal Members are the decision makers of NCAT. They hear and decide cases in accordance with the law and the evidence presented.

## Things to organise before the hearing day

Whether you are the applicant or respondent, you need to be thoroughly prepared for the hearing.

### Write down your issues

Make a dot point list of all the issues that are important to your case. This will assist you in preparing the evidence you will need to support your case.

### Chronology of events

It can be helpful for you and the Tribunal Member to bring a list of the important facts, dates and events.

### Gather your evidence

Collect all documents and other things you are going to rely on. Keep in mind that all parties have the right to view each other's evidence.

Organise your evidence in a folder for easy access during the hearing. Bring copies to give to the other party and to NCAT.

### Practice presenting your case

During the hearing it is important to be concise and remain focussed on the facts. Rehearse what you are going to say. This will help you present your case without forgetting any important points.

## Learn about what happens at NCAT

Consumer and Commercial Division hearings are open to the public. Come along to NCAT and observe other hearings in progress to learn about the Tribunal process.

### Getting help

There are many organisations that provide free or low-cost legal information and assistance. Refer to the 'Getting help' fact sheet on the NCAT website for details.

### Interpreters or special needs

NCAT provides interpreters for parties at hearings free of charge upon request. Other special needs such as hearing loop or wheelchair access may also be accommodated. Contact us as early as possible before the hearing to discuss your individual needs.

## What evidence should I bring?

At the hearing you will be asked to provide evidence to support your case. Your evidence may include where relevant:

- Residential tenancy agreement and condition reports
- Written proof of the sale or service invoice, original purchase agreement or sales advice
- Any invoices or demands for payment
- Receipts, quotes, reports and payment records
- Warranties in relation to the goods or services
- Correspondence between the parties
- Photographs showing the condition and state of repair (or comparable items if relevant)
- Witness statements, statutory declarations or affidavits
- Any enforcement action undertaken
- Copy of the contract, reports from building experts and certificate of insurance (home building)
- Copies of the strata or community plan, minutes of relevant meetings, resolutions, relevant registered by-laws or notices (strata and community schemes).



## Can someone represent me?

NCAT hearings are conducted as informally as possible and parties are encouraged to represent themselves. If you want to be represented, send your written request to NCAT before the hearing and arrange for your representative to give a signed and dated written letter of authority to the Tribunal Member at the hearing. The Tribunal Member will decide at the hearing if you can be represented.

## Can I change the hearing date?

If the hearing is set for a date or time you cannot make, you may ask NCAT for another hearing date or time. This is called an 'adjournment'.

NCAT will not agree to an adjournment unless there is a good reason to change the date.

Do not assume NCAT will grant the adjournment. The hearing will go ahead as planned, unless you receive a new hearing date and time.

For more information on how to request an adjournment, visit the NCAT website.

## On the hearing day

Below are some helpful hints that may be useful to you on the hearing day:

- Arrive early – if you are late the hearing may be held in your absence.
- Be polite and respectful – do not make personal comments about the other party or the Tribunal Member no matter how strongly you feel.
- Be concise – only talk about facts relevant to your case.
- Listen carefully to the Tribunal Member and the other party, and try not to interrupt.
- Tell the truth – if you are giving evidence you may be asked to take an oath or affirmation.
- Take along a friend or relative for moral support.
- Bring a pen and paper with you so you can make notes.
- If you do not understand something or if you are unsure, ask for it to be repeated or explained in simple terms.

## When will I know the outcome?

The Tribunal Member will generally tell you the decision at the end of the hearing and explain why the orders are being made. Written orders are given to parties at the end of the hearing or sent by post. Sometimes the Tribunal Member will not make a decision on the day, and the orders and reasons will be sent at a later date. This is known as a reserved decision.

## Types of hearings

### Group list hearings

The majority of NCAT Consumer and Commercial Division matters are listed for first hearing in a group list where a number of matters are listed together before a Tribunal Member. Where both parties appear they are encouraged to resolve their dispute through conciliation. If conciliation is successful, the Tribunal Member will make consent orders. If conciliation is unsuccessful, or if only one party appears, the matter proceeds to hearing.

### Special fixture (formal) hearings

Special fixture hearings are used when attempts at settlement have failed and more time is required to hear the case. The hearing is set for a specific length of time where the issues in dispute will be finally determined and a decision made. Special fixture hearings can run over a few hours or several days, depending on the complexity of the issues in dispute.

### Directions hearings

Directions hearings direct the parties to do certain things in preparation for the hearing. They are used in matters where there may be a need to establish jurisdiction or make directions for the exchange of evidence.

## Contact NCAT

**1300 006 228 | [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)**

For more information and assistance visit the NCAT website [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au) or contact NCAT on **1300 006 228**