

Resolving residential rental problems

Evictions during COVID-19

On this page

- [General information](#)
- [Repairs, maintenance or damage disputes](#)
- [Resolving disputes through the Tribunal](#)

General information

First steps

The first step in resolving any problem or complaint is to carefully read the terms of your agreement.

It is best for the tenant and landlord or agent to try and resolve any issues between themselves.

To avoid further issues, any agreement reached should be put in writing.

Next steps

If an agreement can't be made, NSW tenants, landlords and agents can use our free [tenancy and real estate complaint service](#).

Tenancy advice and advocacy service

The Tenants Advice and Advocacy Services provides assistance and advocacy to all tenants, particularly social housing tenants or the vulnerable.

To find your nearest Tenants Advice and Advocacy Service, visit www.tenants.org.au or call 8117 3700.

Repairs, maintenance or damage disputes

If a tenant or landlord is unable to resolve a dispute about repairs, maintenance or damage through our [tenancy and real estate complaint service](#), either party may be able have the dispute further investigated further.

We can investigate whether:

- the landlord has breached their obligation to provide and maintain the property in a reasonable state of repair – this is a **landlord rectification order**
- the tenant has caused (or permitted) damage and failed to satisfactorily repair the damage without a reasonable excuse – this is a **tenant rectification order**.

For us to investigate, certain criteria must be met.

What criteria need to be met for further investigation?

Landlord rectification order

A tenant may request their issue be investigated further if:

- the tenant has written to the landlord asking the landlord to carry out repairs that are needed to keep the property in a reasonable state of repair
- the tenant's written request includes what repairs are needed, and
- the landlord has failed to carry out the repairs satisfactorily without a reasonable excuse.

Tenant rectification order

A landlord or agent may request their issue be investigated further if:

- the landlord has written to the tenant asking the tenant to repair the damage
- the landlord's written notice details what damage needs to be repaired, and
- the tenant has not repaired the damage satisfactorily, without a reasonable excuse.

The tenant must agree to Fair Trading investigating the damage to the property.

If the tenant refuses, the landlord will need to apply to the NSW Civil and Administrative Tribunal (the Tribunal).

The rectification process does not apply if the damage was caused by a domestic violence offender during a domestic violence incident.

The investigation process

1. Our investigator will gather information. This may include talking the landlord, agent and tenant either at the property, or by phone. We'll also review relevant documents.
 2. If an agreement between the parties can be reached, the investigator will complete a 'complaint report' which records what each party has agreed to.
 3. If our investigator believes that the landlord or tenant has not met their obligations, a rectification order will be issued directing the landlord or tenant to rectify or complete the work by a due date.
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The landlord or tenant rectification order will:

- list the reasons the order was made, including relevant investigation results
- set a date for the work to be completed.

A copy of the rectification order will be provided to the other party.

What if the landlord or tenant doesn't agree with the rectification order?

A landlord or tenant who does not agree with a rectification order can either:

- apply to us to have the decision reviewed
 - the application must be made within seven days of the order being made
 - the rectification order will be suspended until a decision is made. If the rectification order is amended, a new rectification order will be issued.
- apply to the Tribunal for a new decision
 - the application must be made within 14 days of us making the rectification order or amended order.
 - the order will be suspended until a decision is made or if the application is withdrawn. Once an order is made by the Tribunal, the original rectification order will have no effect.

What if the rectification order is not complied with?

If a landlord does not comply with a landlord rectification order, then a penalty may apply.

If a tenant does not comply with a tenant rectification order, the landlord can apply to the Tribunal for a termination order to end the tenancy.

Resolving disputes through the NSW Civil and Administrative Tribunal

The NSW Civil and Administrative Tribunal (the Tribunal) is an independent body that hears and decides on applications for orders from tenants and landlords.

A landlord or tenant can decide to lodge an application with the Tribunal if:

- Fair Trading cannot find a solution mutually agreed to by both parties
- a termination order is being sought
- your complaint is not covered by matters dealt with by Fair Trading.

Process

The Tribunal will first ask the parties to try to reach a settlement. If this cannot be achieved, the case will then be heard in the Tribunal hearing room.

The Tribunal will allow both parties, in turn, to tell their side of the events and present any evidence.

Hearings are usually informal. Formal hearings can be held on request, where witnesses can be called and evidence is given under oath.

It is up to the person who made the application to provide enough evidence to convince the Tribunal Member that the orders they are seeking should be given.

Any orders made are binding.

Cost

The Tribunal's [fees page](#) lists the costs.

There is a reduced fee for eligible pensioners and full time students.

Hearings are usually held within one month at a venue nearby the premises.

Tribunal limits

There are time limits for applying to the Tribunal for certain orders.

For example, in cases where an order is requested regarding broken terms of the tenancy agreement, this order should normally be brought forward within three months of becoming aware of this.

Orders

The Tribunal can make orders, among others, that:

- a term of the agreement be complied with
- compensation be paid to a tenant or landlord
- a rent increase is excessive
- the agreement be ended
- a rental bond be paid.

If a landlord doesn't reside in NSW

The Tribunal will not be able to determine your matter if it involves 'federal jurisdiction', for example where the landlord and tenant ordinarily live in different states, or when a matter involves laws made by the Commonwealth Parliament, such as the [Disability Discrimination Act 1992](#).

In this situation, the landlord or tenant can still apply to the Tribunal for help in coming to an agreed settlement. Otherwise, the matter will need to be heard by the Local or District Court.

Learn more about federal jurisdiction on the [Tribunal website](#).

[Prev](#) Rental bonds online

[Next](#) Information for professionals who can make a domestic violence declaration

