Circle Green Community Legal

Applying to the Magistrates Court

*In the **Residential Tenancies Act** the **landlord** is referred to as the **lessor.***

If you cannot resolve a dispute with your lessor by negotiating, either party can then apply to Court.

In most cases, applications must be made online, on the eCourts Portal.

Applications must be made to the Court closest to the rental property.

The Court can change the venue, upon application by either party, if it is satisfied that it would be more convenient or fair to the parties if the whole or a part of the proceedings in a case were conducted at another place in the State.

APPLICATION FORMS

The following forms are used to commence or dispute a residential tenancy application and can be found on the Magistrates Court of WA website under Types of Cases > Civil Matters > Residential Tenancies Forms.

- Application for Disposal of Bond Money (Form 6) is used for bond disputes where the amount in dispute is not more than the amount held in the bond account, and the bond has not yet been paid out. When a party lodges a Form 6 application, the Court will send a copy to the other party, and, if they dispute the application, they need to return a Form 5 (Notice of Intention to Dispute Application for Disposal of Bond Money) within 7 days of service. This Form 5 is attached to the back of the Form 6. If the other party does not return the Form 5 within 7 days, then the Court can make an order to dispose of the bond in the way set out in the Form 6.

Note: there is a new process for the release of the bond, so you do not need to apply to the Magistrates Court in the first instance, please read our fact sheet or find more information on the consumer protection website here before filing a court application.

- Application for Court Order (Form 12) is used for disputes other than the bond (such as repairs, unpaid rent, damage to property, termination) or a dispute where the amount being sought is greater than the bond.
- Application to Vary or Set Aside Order (Form 16) is used to vary or set aside an order that was made in the absence of one of the parties. If the original order was for termination and vacant possession, the applicant also needs to lodge a suspension application and an affidavit (see below).

Other Relevant Minor Case Forms (Also found on the Magistrates Court website under Types of Cases > Civil Matters and then their relevant legislation heading):

- Minor Case Claim (Form 4) is used to commence proceedings where a claim is not more than $10,000, and does not fall under the Residential Tenancies Act (for example, claims under boarder and lodger agreements).
- Appeal against a Registrar's Decision (Form 1B) is used to appeal the decision of a Registrar. If the original order was for termination and vacant possession, the applicant should usually also lodge a suspension application and an affidavit (see below).
- Application for a Suspension Order (Form 9) is used to suspend the enforcement of an order. This is most likely used in a residential tenancy matter where a tenant misses their Court hearing and there has been a termination and vacant possession order made. It must be lodged with an affidavit.
- General Form of Affidavit (Form 2)

Note: there are specific time limits that apply to appealing a Registrar's decision or applying to vary or set aside an order. Please read the Court Process fact sheet on reviewing a decision and contact Circle Green Community Legal or your local community legal centre for advice.

If you are lodging an application, you will need to list the lessor's full name and address on the Court application form. If the property is managed by a real estate agent, then you can put the address of the real estate agency, but you will still need to put the lessor's name as the respondent (not the real estate agent or agency).

Magistrates Court civil procedure applications and forms must be lodged electronically on the eCourts Portal. This can be accessed through the Magistrates Court of WA website.

Once you have lodged the application, the Court will generally serve the documents on the other party and set a Court date.

However, after lodging an Appeal against a Registrar's Decision or an Application for a Suspension Order you are required to serve these documents on the other party yourself. Please contact Circle Green Community Legal or your local community legal centre for advice on how to do this.

APPLICATION FEES AND OTHER COSTS

If you are unsuccessful at court, the court generally does not order that you pay the other party's costs, except for any application fee that they paid. However, if the dispute at court involves a claim over $10,000, then the court can order that you pay the other party's costs.

See the Magistrates Court website for updated fees.

Fee Reduction or Waiver

You can apply to have the application fee reduced or waived if you meet certain criteria, such as being financially disadvantaged.

This application can be made online when you lodge your application, by clicking the check box regarding fee reduction and noting your concession card number. If you have already paid the fee or you do not have a concession card, you can lodge a Form 1A, Form 1B or Form 1C which

are located on the Magistrates Court website under Civil Matters> Magistrates Court (Fees) Regulations 2005 Forms.

To have the fee reduced or waived you need to satisfy the Registrar that you hold either a health care card, a health benefit card, a pensioner concession card, a Commonwealth seniors health card, or a card issued by Centrelink or the Department of Veteran's Affairs.

Alternatively, you need to satisfy the Registrar that, by reason of your financial circumstances, you are unable to pay the prescribed fee, or the payment of the fee should be reduced/refunded or postponed in the interests of justice (i.e., a right or obligation affecting the community).

In a residential tenancy claim where the dispute does not involve an amount over $10,000, the Court will not order that one party pays the other party's legal fees (the Court will not 'award costs'), unless:

- all parties to proceedings were represented by legal practitioners; or
- it is of the opinion that there are special circumstances justifying the award of costs.

However, the Court **can** make an order for payment of the application fee to the successful party.

In a minor case claim (i.e., a boarder and lodger dispute), the Court can make an order for payment of the successful party's allowable costs.

Allowable costs include the Court fees, service fees and the costs of enforcing a judgment. The Court can only make an order for the payment of other costs if it is satisfied that:

- Because of the existence of exceptional circumstances an injustice would be done to the successful party if that party's other costs were not ordered to be paid; or
- The unsuccessful party's claim or defence was wholly without merit.

INTERPRETER

The Court can provide an interpreter for free. If you need an interpreter, write this on your application, including the language and dialect, or contact the Magistrates Court once you receive the notice of hearing to organise an interpreter.

ATTENDING COURT

It is important that you attend any Court hearing because the Court can make orders in your absence. If you lodge an application and do not attend the hearing, the Court can dismiss your application.

Orders that the Court can make in your absence include, but are not restricted to:

- An eviction order;
- The disposal of the bond to the lessor;
- The payment of compensation to the lessor;
- The payment of charges that you were not aware of or did not agree with; and

- Orders that the bailiff can attend your premises and take goods to the value of the judgment debt.

If the hearing is set for a date or time that you cannot attend, you need to contact the Court as soon as possible before the hearing and ask for the matter to be adjourned for a later date when you can attend. If you have time, then the best way to do this is by writing a letter or email to the Court and asking for this to be placed on your file (If it is urgent, make sure you call the Court and advise them as a letter or email may not be received prior to the hearing).

You will need to provide a good reason as to why you cannot attend, and you will need to provide evidence of this (i.e., if you are extremely ill in hospital). The Court may still proceed in your absence.

If you are running late for a hearing, call the Court and let them know that you are coming. You can ask for your matter to be called at the end of the list, otherwise the hearing may be over by the time you arrive. The Court may still proceed in your absence.

ATTENDING COURT BY AUDIO LINK

The court has facilities to arrange an audio link, if you are unable to attend Court in person (i.e., you are overseas or interstate). The Court will not accept a family member or friend in your absence.

If your matter is listed for trial and you want to appear by audio link, you must lodge a Form 23 Application together with a supporting affidavit.

If your matter is not listed for trial (i.e., pre-trial conference), your request must be submitted in writing (including by email) to the Registrar at the relevant Court no later than 12 pm on the working day prior to the scheduled appearance.

The request should specify the reason for your request and provide your contact details.

The request will be referred to a Registrar at the relevant Court who may grant the application or refer it to the Magistrate.

Until you are advised that the application is granted, you should be prepared to appear in person.

If you are given leave to appear by audio link and fail to answer the call from the Court, this will be treated in the same manner as if you failed to appear in person (i.e., the Court may make a decision in your absence).

This fact sheet is current as at 26 March 2026.

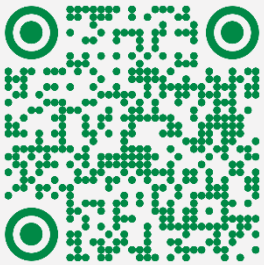
FURTHER HELP – TENANTS ADVICE AND ADVOCACY

Circle Green Community Legal
(08) 6148 3636
www.circlegreen.org.au

Consumer Protection for consumer and tenancy related matters
commerce.wa.gov.au/consumer-protection | 1300 304 054

To find a tenant advocate in your area, visit our website or use the QR code →

https://circlegreen.org.au/resource/find-a-tenant-advocate



Disclaimer

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