

# Repairs in NSW public housing & private rentals



Redfern Legal Centre



## **Ned Cooke**

Tenants' Advocate  
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# **Acknowledgement Of Country**

# Outline

1. The right to repairs
2. Enforcing the right to repairs
3. Navigating the FACS Housing repairs and maintenance system
4. Questions. Where to get legal advice

**Resources** [www.rlc.org.au/training/resources/repairs](http://www.rlc.org.au/training/resources/repairs)

# 1. The right to repairs





# The right to repairs

A tenant is entitled to live in a property that is in ***a reasonable state of repair***

...having regard to

- the age of,
- rent payable for, and
- prospective life of

the premises.

# The right to repairs

## Other things to know:

- Includes common property
- Applies even if a tenant knew about the state of property before they moved in
- Doesn't apply unless landlord knew or ought to have known about the repair issue (*notice*).
- Landlord has to act with *reasonable diligence* to address the problem.
- Landlords are not obliged to fix damage caused by the tenant.



## 2. Enforcing the right to repairs



# Enforcing the right to repairs

- Write to landlord or real estate agent
- Pay a tradesperson and seek reimbursement (urgent repairs only)
- NSW Fair Trading Complaint Service
- Local council
- NSW Civil & Administrative Tribunal



# NCAT application



NCAT  
NSW Civil &  
Administrative Tribunal

February 2017

## Tenancy application

CONSUMER AND COMMERCIAL DIVISION | TENANCY LIST

Complete this form to apply to NCAT's Consumer and Commercial Division for orders under the *Residential Tenancies Act 2010* to resolve a tenancy dispute. Tenancy applications can also be lodged online with [NCAT Online](#).

File Number  
*Office use only*

### 1. RENTED PREMISES

#### A. ADDRESS OF RENTED PREMISES

Provide the address of the house or unit that is the rental property, as it appears on the residential tenancy agreement.

Address:

#### B. RENTAL BOND NUMBER

#### C. REAL ESTATE AGENCY DETAILS

If applicable provide name and address of agency managing the rented premises.

Agency name:

Agency address:

#### D. RELATED FILE NUMBERS

List any previous NCAT file numbers relating to the parties and the current dispute:

☐ Are you making an application that concerns goods or services that you were provided that were funded by the National Disability Insurance Scheme?

### 2. APPLICANT

#### A. APPLICANT TYPE

Tick the box that best describes the person lodging the application to the Tribunal.

☐ Landlord    ☐ Tenant    ☐ Co-tenant    ☐ Former co-tenant  
☐ Occupant    ☐ Prospective tenant    ☐ Other person (please specify)



# NCAT: Who do you apply against?

- Private tenants: the 'respondent' is your landlord (not your Real Estate Agent). Check your Residential Tenancy Agreement for their details.
- DCJ Housing tenants: the 'respondent' is the NSW Land and Housing Corporation. It is usually best to address your NCAT application to the local DCJ Housing team.

e.g. NSW Land and Housing c/- DCJ T101 232 Pitt St Waterloo 2017

# NCAT: Orders



**NCAT**  
NSW Civil &  
Administrative Tribunal

Section	Orders	Time limit for applying to the NCAT
<b>65(1)(a)</b>	An order that the landlord carry out repairs	Three months or no limit if the breach continues.
<b>44(1)(b)</b>	An order that the rent payable is too high (excessive) due to the reduction or withdrawal of any goods, services or facilities supplied with the residential premises	Must be brought to the tribunal <b><u>during the tenancy</u></b> . You cannot lodge an excessive rent claim once the tenancy has ended.
<b>187(1)(d)</b>	An order for compensation for economic or non-economic loss  Note: Maximum claim is \$15,000	Within <b><u>three months</u></b> of becoming aware of the breach.

*From NCAT Tenancy Application Form*



# Online application

-

Repairs

?

☐ Section 65(1)(a) - An order that the landlord carry out repairs

?

☐ Section 65(1)(b) - An order that the landlord reimburse the tenant an amount for urgent repairs carried out by the tenant \$

?

☐ Section 65(5) - An order that all or part of the rent payable be paid into the Tribunal until repairs are carried out

+

Residential tenancy databases

+

Security and safety of residential premises

-

Rent and other payments

?

☐ Section 44(1)(a) - An order that a rent increase is excessive

?

☐ Section 44(1)(b) - An order that the rent payable is excessive due to the reduction or withdrawal of any goods, services or facilities provided with the residential premises

?

☐ Section 45 - An order reducing the rent payable where the premises are unusable or uninhabitable or destroyed

?

☐ Section 46 - An order for the repayment of rent paid in excess of an amount specified by the Tribunal

?

☐ Section 47 - An order for the repayment of rent or other payments made by the tenant contrary to the Act or the residential tenancy agreement

+

Rental bonds

+

Repairs

# Online application (cont.)

Select Orders by Category	
Place a tick against the order(s) you are seeking	
<b>+ Access to residential premises</b>	
<b>+ Alterations and additions to residential premises</b>	
<b>+ Change of tenants</b>	
<b>- General orders</b>	
<input type="checkbox"/>	Section 187(1)(a) - An order that restrains any action in breach of a residential tenancy agreement
<input type="checkbox"/>	Section 187(1)(b) - An order that requires an action in performance of a residential tenancy agreement
<input type="checkbox"/>	Section 187(1)(c) - An order for the payment of an amount of money \$ <input type="text"/>
<input type="checkbox"/>	Section 187(1)(d) - An order as to compensation \$ <input type="text"/>
<input type="checkbox"/>	Section 187(1)(e) - An order that a party to a residential tenancy agreement perform such work or take such other steps as the order specifies to remedy a breach of the agreement
<input type="checkbox"/>	Section 187(1)(f) - An order that requires payment of part or all of the rent payable under a residential tenancy agreement to the Tribunal until the whole or part of the agreement has been performed or any application for compensation has been determined
<input type="checkbox"/>	Section 187(1)(g) - An order that requires rent paid to the Tribunal to be paid towards the cost of remedying a breach of the residential tenancy agreement or towards the amount of any compensation
<input type="checkbox"/>	Section 187(1)(h) - An order directing a tenant to comply with a requirement of this Act or the regulations
<input type="checkbox"/>	Section 187(1)(j) - An order directing a landlord or landlord's agent to give a former tenant or person authorised by a former tenant access to residential premises for the purpose of recovering goods of the former tenant or fixtures that the former tenant is entitled to remove
<b>+ Goods left in residential premises</b>	
<b>+ Mortgagee repossession</b>	
<b>+ Pre-agreement matters and residential tenancy agreements</b>	
<b>+ Rent and other payments</b>	

# Conciliation & hearing



**NCAT**  
NSW Civil &  
Administrative Tribunal



*Image: NCAT*



*Image: LawAccess NSW*

# Evidence

- Photos
- Emails
- Job ref. numbers
- Written statements
- Receipts, invoices or quotes







### **3. Navigating FACS Housing repairs and maintenance system**

# DCJ (FACS) Housing tenants

**Maintenance Line: 1800 422 322**

Write down:

- the date and time of your call
- the name of the person you spoke with
- what you discussed
- the expected response time
- the job reference number



**Family &  
Community  
Services**

# DCJ (FACS) Housing tenants



[FACS website](#)

[Provide your feedback](#)

[Home](#) [Contents](#)

[Basket empty](#)

 Bath and Showers	 Cupboards, Drawers and Wardrobes	 Doors	 Electrics	 Gas Services	 Heating and Cooling	 Hot Water	 Kitchen Sinks and Bathroom Basins
 Laundry Items and Clothes Lines	 Outside of Home	 Pests	 Stoves and Rangehoods	 Toilets	 Walls, Floors, Ceilings and Stairs	 Water Meter	 Windows



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# DCJ (FACS) Housing tenants

“Planned Program of Works”



Keep re-reporting the issue:

- If tradesperson didn't show up
- If tradesperson just did an inspection and didn't return to do the work when they said they would
- If the work wasn't completed to a satisfactory standard
- If the repair issue comes back

Keep a written record of all calls.



# DCJ (FACS) Housing tenants: Further options

- Apply to NCAT (same as any other tenant)
- Contact Local Member of NSW Parliament
- Contact NSW Housing Minister's Office
- Make complaint to DCJ Housing (online or using Client Feedback Form)
- Make Complaint to NSW Ombudsman



**Family &  
Community  
Services**

# DCJ (FACS) Housing tenants: The Repair Kit

[www.rlc.org.au/publication/repair-kit-getting-facs-housing-repair-your-home](http://www.rlc.org.au/publication/repair-kit-getting-facs-housing-repair-your-home)



## The Repair Kit

Getting FACS Housing to repair your home  
A legal guide for public housing tenants in NSW

# Questions?



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POPULAR TOPICS:



GET ADVICE FROM YOUR LOCAL TENANT ADVOCATE:

Enter your suburb or postcode...

**Aboriginal Tenant Services**

# Tenants Advice & Advocacy Services

[www.tenants.org.au](http://www.tenants.org.au)

fact sheets and sample letters

free confidential legal advice  
on social housing  
- enter your suburb



# Before You Go

**Your feedback** helps us improve our training.  
Please stay with us for another 60 seconds...



**Training:** [rlc.org.au/training](https://rlc.org.au/training)  
Enquiries: Nick Manning  
[education@rlc.org.au](mailto:education@rlc.org.au)

This workshop is a guide to the law in NSW, Australia. It is not a substitute for legal advice.  
If you have a legal problem, seek legal advice from a legal centre or Legal Aid.

# Thank you



Redfern Legal Centre

# We Can Come to You

RLC can present this workshop at your staff training or interagency – or we can customise training to suit your needs.



**Enquiries:** Nick Manning  
(02) 9698 7277  
[education@rlc.org.au](mailto:education@rlc.org.au)