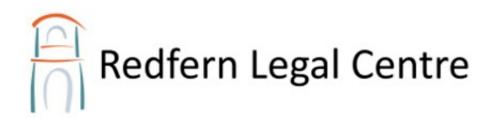
Repairs in NSW public housing & private rentals





Ned Cooke

Tenants' Advocate Inner Sydney Tenants Advice & Advocacy Service Redfern Legal Centre 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 <u>www.rlc.org.au/training/resources/repairs</u>

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



February 2017

Tenancy application

CONSUMER AND COMMERCIAL DIVISION I 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 <u>NCAT Online</u>.

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	Orders Time limit for applying to the NCAT	
65 (1)(a)	An order that the landlord carry out repairs	Three months or no limit if the breach continues.	
44(1)(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 <u>during the</u> <u>tenancy</u> . You cannot lodge an excessive rent claim once the tenancy has ended.	
187(1)(d)	An order for compensation for economic or non-economic loss Note: Maximum claim is \$15,000	Within <u>three months</u> of becoming aware of the breach.	

From NCAT Tenancy Application Form

Online application

Repairs

?

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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

E Repairs						
+	Rental bonds					
	?	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				
	?	Section 46 - An order for the repayment of rent paid in excess of an amount specified by the Tribunal				
	?	Section 45 - An order reducing the rent payable where the premises are unusable or uninhabitable or destroyed				
	?	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 44(1)(a) - An order that a rent increase is excessive				

Online application (cont.)

Se	Place a tick against the order(s) you are seeking				
+	Access to residential premises				
+	Alterations and additions to residential premises				
+	Change of tenants				
	General orders				
	Section 187(1)(a) - An order that restrains any action in breach of a residential tenancy agreement				
	? Section 187(1)(b) - An order that requires an action in performance of a residential tenancy agreement				
	Section 187(1)(c) - An order for the payment of an amount of money \$				
	? Section 187(1)(d) - An order as to compensation \$				
	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				
	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				
	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				
 Section 187(1)(h) - An order directing a tenant to comply with a requirement of this Act or the regulations 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 residentia for the purpose of recovering goods of the former tenant or fixtures that the former tenant is entitled to remove 					
+	Mortgagee repossession				
+	Pre-agreement matters and residential tenancy agreements				
+	Rent and other payments				
+++++++++++++++++++++++++++++++++++++++	 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 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 Section 187(1)(h) - An order directing a tenant to comply with a requirement of this Act or the regulations 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 Goods left in residential premises Mortgagee repossession Pre-agreement matters and residential tenancy agreements 				

Conciliation & hearing



NCAT NSW Civil & Administrative Tribunal

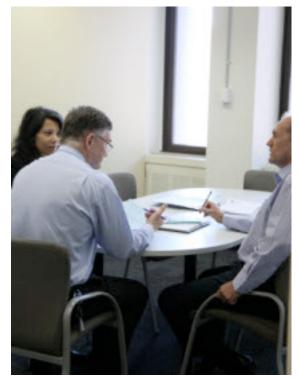




Image: LawAccess NSW

Image: NCAT

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



DCJ (FACS) Housing tenants



FACS website Provide your feedback **Home Contents** Basket empty 1º J.F. 000 C. Bath and Kitchen Sinks and Cupboards, Doors Electrics Gas Services Heating and Hot Water Showers Drawers and Cooling Bathroom Basins Wardrobes 1010-010 PARte Outside of Home Walls, Floors, Laundry Items Pests Stoves and Toilets Water Meter Windows and Clothes Lines Rangehoods Ceilings and Stairs

Family & Community Services

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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

DCJ (FACS) Housing tenants: The Repair Kit

www.rlc.org.au/publication/repair-kitgetting-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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Tenants' Advocate Inner Sydney Tenants Advice & Advocacy Service Redfern Legal Centre

Resources: www.rlc.org.au/training/resources/repairs



POPULAR TOPICS:

Starting a tenancy	Rent and bond	Eviction	You want to leave
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Repairs and utilities	Privacy, access and security	Share houses, boarders and lodgers	Public, community & Aboriginal housing

GET ADVICE FROM YOUR LOCAL TENANT ADVOCATE:



Tenants Advice & Advocacy Services

www.tenants.org.au

fact sheets and sample letters

free confidential legal advice on social housing - enter your suburb

Enter your suburb or postcode.

Before You Go

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



Training: rlc.org.au/training Enquiries: Nick Manning 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



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