



GUIDE TO COMPLETING A FORM 2 RESPONSE

Depending on the type of matter, a respondent may or may not be required to file a Response to an Initiating Application in order to participate in a NTCAT proceeding.

The standard orders accompanying an Initiating Application will state if a response is required and when it must be provided to the applicant and NTCAT.

If ordered to do so, a respondent must file a response using a Form 2 Response, to participate in a NTCAT proceeding.

Failure to file a response when so ordered may result in the matter proceeding to an uncontested hearing and orders being made in the absence of the respondent.

This Guide is provided to assist you in completing a Form 2 Response. It provides general information and should not be considered legal advice. The information provided in **green** is fictitious and is provided as an example of the type of information you may include in each part of the Form 2 Response.

If you are unsure about any information that is required in the Form 2 Response, you should obtain legal advice. NTCAT cannot provide you with legal advice.

PART A – PARTIES

The applicant and respondent are the parties to the proceeding.

There can be more than one applicant and more than one respondent in a proceeding.

The parties must be identified by their correct legal name.

APPLICANT/S: **We do Windows Pty Ltd**

* As identified in the Initiating Application

RESPONDENT/S: **Kim Smith**

* Your name

PART B – RESPONDENT/S INFORMATION

If you are the person against whom a proceeding has been brought, then you are the respondent.

The correct legal name of each respondent must be provided and (at a minimum) a postal address to which correspondence can be sent to you.

Where the respondent is a company, the address of the registered office must be provided.

For example:

NAME/S: Kim Smith

ADDRESS: 1 King Street, Darwin, Northern Territory, 0810

E-MAIL: smitho@gov.com.au

PHONE: 08 1235 7890

MOBILE PHONE: 0123 9875 6325

Important: The use of electronic media for the exchange of documents and other important information in NTCAT proceedings is strongly encouraged. If you are able to provide an email address it will be used for the service of documents and notices. If you have provided a mobile phone number NTCAT may send you SMS text messages with notifications about your matter.

PART C – DETAILS OF RESPONSE

You must state what you want NTCAT to do in the proceeding that has been brought against you by the applicant.

The applicant should have no doubt as to what decision, remedy or order you want NTCAT to make. This will be determined in part by the applicant's cause of action, the Act of Parliament the applicant has relied upon to bring the proceeding before NTCAT, and also the powers conferred on NTCAT under the *Northern Territory Civil and Administrative Tribunal Act*.

Some common orders that are sought from NTCAT are as follows:

- in a small claim matter, you may agree to NTCAT making an order that you owe an amount of money but not the full amount the applicant is claiming to satisfy a debt.
- in a residential tenancy matter, you may dispute NTCAT making an order to return a security deposit that you are holding as the landlord of premises that were leased to the applicant.
- in a disciplinary matter under the *Health Practitioners Act* you may seek an order that NTCAT dismiss an appeal brought by an applicant to have a decision to suspend their registration as a nurse set aside.
- in an internal review matter you may seek an order that NTCAT dismiss an application to review an earlier decision that was made in your favour.

For example:

WHAT DECISION OR ORDER/S DO YOU WANT NTCAT TO MAKE?

NTCAT should dismiss the application.

You must provide a brief summary of the facts you are relying upon in response to the proceeding the applicant has brought before NTCAT.

It is important that your summary is clear and includes enough information for the applicant to understand the grounds you are relying on to dispute any claims that the applicant has made in the initiating application. The summary should not be longer than one page.

Do not include documents with your Response. When it is appropriate, NTCAT will issue orders about how and when you must send your evidence to the applicant and NTCAT.

For example:

WHAT ARE YOUR REASONS FOR SEEKING THE ABOVE DECISION OR ORDER/S?

The applicant is claiming an amount of \$5,000 under the *Small Claims Act* for windows that were allegedly installed at my premises, being 1 King Street, Darwin, Northern Territory, 0810.

I do not agree that I owe the applicant the amount that is being claimed.

The applicant supplied windows for installation at my premises on 1 March 2018. I received an invoice (dated 1 April 2018) for \$10,000 for the supply of the windows. I paid the invoiced amount in full by way of bank transfer on 3 April 2018.

I then received a second invoice (dated 21 May 2018) for an amount of \$5,000 claiming the costs of labour associated with installing the windows.

The applicant did not install the windows at my premises.

A company called We Install Windows Pty Ltd installed the windows at a cost of \$2,000. I have a copy of the receipt for the installation and a Statutory Declaration from the company evidencing that they in fact installed the windows that are the subject of this dispute. I will provide this evidence to the applicant and NTCAT when requested to do so.

SIGNATURE

A person signing as a representative of a respondent, warrants to NTCAT that he/she has the legal authority to do so. Evidence of this authority may be requested when the matter is brought before NTCAT for hearing.

SIGNATURE OF RESPONDENT OR RESPONDENT'S REPRESENTATIVE:¹

Kim Smith

NAME: Kim Smith

DATE: 17 September 2018

IMPORTANT NOTICE

**ORDERS SENT WITH THE INITIATING APPLICATION
SPECIFY WHEN THIS RESPONSE MUST BE FILED WITH
NTCAT AND SERVED ON THE APPLICANT**

¹ A person signing as representative of a party warrants to NTCAT that he/she has the lawful authority to do so.