



## GUIDE TO COMPLETING A FORM 1 INITIATING APPLICATION

NTCAT proceedings (apart from guardianship matters – see <https://ntcat.nt.gov.au/publications/form-1-initiating-application#>) are commenced by filing a Form 1 Initiating Application and paying the applicable fee or being granted a fee waiver.

It is important to include all the information that is requested in the Form 1 Initiating Application, otherwise your application may be delayed or, in some cases, not accepted.

This guide is provided to assist you in completing a Form 1 Initiating Application. It provides general information and should not be considered legal advice.

The information in *blue italics* is provided as general guidance about the different parts of the Form 1 Initiating Application.

The information in *green* is provided as a fictitious example of the type of information you might include in each part of the Form 1 Initiating Application.

If you are unsure about any information that is required in the Form 1 Initiating Application, you should obtain legal advice. NTCAT cannot provide you with legal advice.

## INITIATING APPLICATION

FOR COMMENCEMENT OF NTCAT MATTERS - NTCAT Rule 5

### 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.*

*You must identify the parties by their correct legal name. A document, invoice, receipt, contract or agreement related to the dispute may assist you with this or you may wish to obtain legal advice. NTCAT cannot give you advice about who are the correct parties or the correct legal name for the parties.*

*The most common parties to a proceeding are as follows:*

- *an **individual person** can be named as a party and should be identified by both their first and last name (eg. 'Jane Smith');*
- *a **company** can be named as a party and must be identified by its registered company name and (preferably) its Australian Company Number (ACN). If the company is trading with a registered business name this can also be included (eg. 'Aussie Haulage Pty Ltd (ACN: 000000000) trading as Big Wheels NT');*
- *a **body corporate** can be named as a party and should be identified by the Unit Plan Number (eg. 'The Proprietors – Unit Plan Number 01/123');*

- for claims by or against the government or a government department, the correct party is the relevant Territory or State (eg ‘The Northern Territory’); and
- for trusts, the trustee for the trust must be named as a party and identified as such (eg. ‘Jane Smith as Trustee of the Smith Family Trust’).

For example:

**APPLICANT/S:**

\* The person or entity making the application

Aussie Haulage Pty Ltd (ACN: 000000000) trading as Big Wheels NT

**RESPONDENT/S:**

\* The person or entity the application is made against.

Jane Smith and John Doe

## PART B – APPLICANT/S DETAILS

*If you are making this application, then you are the applicant. There can be more than one applicant.*

*The correct legal name of each applicant must be provided (see ‘Parties’ above).*

*It is important that the respondent and NTCAT have correct address/contact details for the applicant/s. A postal address must be provided; however, NTCAT prefers to communicate with parties electronically, so an address (or addresses) for electronic contact is highly desirable.*

*If the applicant is a company, the address of the registered office should be provided.*

For example:

**FULL NAME/S:** Aussie Haulage Pty Ltd (ACN: 000000000) trading as Big Wheels NT

**ADDRESS:** 1 Smith Street, Nightcliff, Northern Territory, 0810

**E-MAIL:** aussie.haulage@trucking.com

**PREFERRED PHONE NUMBER:** 08 1111 1111

**ALTERNATIVE PHONE NUMBER:** 0422 222 222

## PART C – APPLICANT/S REPRESENTATIVE DETAILS (if any)

*If you wish to conduct your NTCAT proceeding using the services of a lawyer or a professional advocate (such as a real estate agent) you should complete this section.*

Please note that the rules regarding representation in NTCAT proceedings can vary depending on the type of representation proposed and the type of proceeding. In most NTCAT proceedings a party has the right to have a lawyer appear for them at hearings. An important exception regarding legal representation is claims under the Small Claims Act, in which a party to a proceeding is entitled to appear by a lawyer only with the leave (permission) of NTCAT. A party wishing to have a non-lawyer appear for them at any NTCAT hearing must also obtain leave. A party requiring leave should make an ordinary application – see <https://ntcat.nt.gov.au/publications/view-form-3-ordinary-application#>

For example:

FULL NAME/S: Fred Brown of We R Real Estate Pty Ltd  
ADDRESS: 3 Smith Street, Nightcliff, Northern Territory, 0810  
E-MAIL: werrealestate@gov.com.au  
PREFERRED PHONE NUMBER: 08 3333 3333  
ALTERNATIVE PHONE NUMBER: 0987 654 321

#### **PART D – RESPONDENT/S DETAILS** (*Applicant/s to provide as much detail as known*)

The person you are claiming against is called the respondent. There can be more than one respondent.

The correct legal name of each respondent must be provided (see 'Parties' above).

It is important that an applicant provides correct address/contact details for the respondent/s. A postal address must be provided; however, NTCAT prefers to communicate with parties electronically, so an address (or addresses) for electronic contact is highly desirable.

If the respondent is a company the address of the registered office should be provided.

For example:

FULL NAME/S: Jane Smith and John Doe  
ADDRESS: 3 Belle Place, Rapid Creek, Northern Territory, 0810  
E-MAIL: thesmithies@hotmail.com.au

PREFERRED PHONE NUMBER: 0123 456 789

ALTERNATIVE PHONE NUMBER: 08 6666 6666

## PART E - JURISDICTION

*NTCAT can only hear a case when an Act of Parliament gives it authority. The NTCAT website has a list of Acts under which NTCAT has jurisdiction – see <https://ntcat.nt.gov.au/publications/ntcat-jurisdiction-list#>*

*You must identify the jurisdiction (that is, the Act of Parliament) you are relying upon to bring a proceeding before NTCAT.*

*It is recommended that you check the relevant legislation and consider obtaining legal advice if you are unsure whether NTCAT can deal with your matter.*

*For example:*

**WHAT IS YOUR APPLICATION ABOUT?** *(For guidance please refer to NTCAT publication 'NTCAT Jurisdictions'.)*

SMALL CLAIM

RESIDENTIAL TENANCY

Please specify the address of the premises to which the application relates:

2 Brown Street, Nightcliff, Northern Territory, 0810

REVIEW OF AN NTCAT DECISION ('INTERNAL REVIEW')

Please specify the NTCAT file number for the decision you would like reviewed:

OTHER

Please specify the Act that gives you the right to apply to NTCAT:

## PART F – ORDER(S) SOUGHT

You must state what you want NTCAT to do in the proceeding – in other words, the outcome you want to achieve by bringing the proceeding.

You need to make clear to the respondent what decision, remedy or order you want NTCAT to make. This will be in part determined by your cause of action, the Act of Parliament upon which you are relying 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 claims matter, an applicant might seek an order that the respondent pay a specified amount to satisfy a debt that is owing.
- in a residential tenancy matter, an applicant might seek an order that the respondent return a security deposit that is being unlawfully held.
- in a disciplinary matter under the Health Practitioners Act an applicant might seek an order setting aside a decision to suspend his/her registration as a health practitioner.
- in an internal review matter an applicant might seek an order that NTCAT set aside its earlier decision and substitute a decision in the applicant's favour.

For example:

WHAT ORDER/S DO YOU WANT NTCAT TO MAKE?

Order for termination, vacant possession and compensation for rental arrears with respect to the premises at 2 Brown Street, Nightcliff, Northern Territory, 0810.

IF THE ORDER/S INCLUDE A MONETARY AMOUNT, WHAT IS THE TOTAL AMOUNT YOU WANT THE RESPONDENT/S TO PAY YOU?

NIL

\$1 TO \$1,999

\$2,000 to \$10,000

OVER \$10,000

## PART G – GROUNDS FOR APPLICATION

You must provide a brief summary of the facts you are relying upon to bring a proceeding before NTCAT.

It is important that your summary is clear and includes enough information for the respondent to understand your claim. The summary should not be any longer than one page.

If you are claiming payment of money, you must include details of each amount claimed.



When stating the grounds, try to concentrate on the facts that you want to prove rather than the evidence you will rely on to prove those facts. This can be a difficult distinction to maintain, but it will be much easier for you to keep your summary to one page if you avoid referring to evidence.

Also, do not attach evidence to your Initiating Application. When it is appropriate, NTCAT will issue orders about how and when you must provide your evidence to the respondent and NTCAT.

For example:

**WHAT ARE YOUR REASONS FOR SEEKING THE ABOVE ORDER/S?**  
(Please provide a summary of the facts relating to your application - the summary should be no longer than one page):

There is a twelve month residential tenancy agreement between the parties that commenced on 1 January 2018 and expires 31 December 2019, with respect to the premises at 2 Brown Street, Nightcliff, Northern Territory, 0810.

Under the agreement, the respondents (tenants) are required to pay the applicant (landlord) rent of \$300 per week.

The last rental payment made by the respondents was \$300 on 30 June 2018.

On 1 September 2018 the respondents were personally served with an RT03 Notice by Landlord to Tenant to Remedy Breach of Agreement – Unpaid Rent.

At that time, an amount of \$2657.14 was owing in rental arrears (equivalent to 62 days rent).

Under the RT03 Notice the respondents had until 14 September 2018 to remedy the breach by paying the outstanding rental arrears.

The respondents have not paid any monies towards the rental arrears. As at today (17 September 2018), an amount of \$3385.71 is owing in rental arrears.

On this basis, the applicant seeks an order for termination, vacant possession and compensation for rental arrears with respect to the premises at 2 Brown Street, Nightcliff, Northern Territory, 0810.

## PART H – OTHER MATTERS

### 1. FEE WAIVER

To apply for a fee waiver, select 'yes' below.

NTCAT will email you and ask you to provide written reasons to support your application for a fee waiver. You may also be asked to submit supporting documentation such as proof of income; proof of expenditure; proof of assets; proof of liabilities; bank statement/s; and/or letter of support from a service provider.

NTCAT's Registrar considers applications for a fee waiver on a case by case basis. You will be advised in writing if the fee has been waived or if you are required to pay the fee in full for your initiating application to be processed.

For example:

DO YOU SEEK A WAIVER OF THE APPLICATION FEE ON THE GROUND OF FINANCIAL HARDSHIP?

YES

NO

(If 'yes' please provide **separately to this form** a summary of your reasons why NTCAT should grant the fee waiver along with any supporting documentation.)

## 2. EMERGENCY APPLICATIONS

Most disputes are non-urgent. However, if you believe urgent circumstances exist at the time you commence a proceeding, you should select 'yes' below.

You need to provide a brief explanation as to why you say an emergency hearing (usually within one to seven working days) is necessary.

An emergency hearing will only be conducted in circumstances of true urgency, taking into account considerations such as:

- whether there is a threat of damage or injury to person or property;
- health and safety issues;
- whether parties will suffer severe personal or financial hardship if a matter is not dealt with urgently; and/or
- whether an urgent hearing will disadvantage or cause prejudice to any party.

For example:

DOES YOUR APPLICATION REQUIRE AN EMERGENCY HEARING BY NTCAT?

(NTCAT aims at dealing with all matters as promptly as possible. An applicant should **only** answer 'yes' if there are circumstances making it imperative that a hearing is held in less than seven days from the date of the application.)

YES

NO

*(If 'yes' please provide a brief summary of why you say the application is urgent).*

I am seeking an order for emergency repairs to the house I am renting. The problems with the electrical wiring mean that the power cuts out for several hours nearly every day and I am regularly unable to cook meals or keep food in the refrigerator from spoiling.

### 3. LATE APPLICATIONS

*A time limit may apply to bring your proceeding before NTCAT. For example, section 94(3) of the Northern Territory Civil and Administrative Tribunal Act provides that an application for a review proceeding must be filed with the Registrar within 28 days after the relevant day, being the day notice of the decision was given. Alternatively, time limits may be prescribed by the Act of Parliament you are relying upon to bring a proceeding before NTCAT, or by the Limitation Act.*

*If you believe you are bringing your proceeding outside an applicable time limit, you should select 'yes' below.*

*For example:*

DO YOU REQUIRE AN EXTENSION OF TIME IN ORDER TO MAKE THIS APPLICATION?

YES

NO

### 4. STAYS

*In nearly all matters in NTCAT's review jurisdiction, the filing of an application to review the decision does not affect the operation of the decision being challenged (one exception is certain planning appeals – see Planning Act section 119).*

*A party who wishes to prevent action being taken to enforce a decision until NTCAT has reviewed the decision will need to obtain an order staying that decision.*

*For matters where a party is challenging an NTCAT order that has already been registered with the Local Court, a stay will need to be obtained from that Court in order to prevent further enforcement.*

*Stays are only granted in exceptional circumstances. An applicant for a stay needs to demonstrate that there are good reasons why the other party should not have the benefit of an NTCAT decision until the challenge to the decision is determined.*



*For example:*

IN THE CASE OF AN APPLICATION FOR INTERNAL REVIEW, ARE YOU SEEKING A STAY OF THE ORIGINAL NTCAT DECISION?

YES

NO

*(If 'yes' please provide a brief summary of your reasons why NTCAT should grant a stay).*

The decision I am challenging requires me to vacate the premises I am renting by [date]. If I vacate the premises but am successful in challenging the decision I will incur the wasted cost of moving out and then moving back in.

## 5. ADJUSTMENTS TO STANDARD ORDERS

*When NTCAT issues an Initiating Application it will attach standard orders telling the parties how the case will be managed. Standard orders affect both the applicant and the respondent and will identify who has to do what and when. It is very important that parties comply with the standard orders.*

*The standard orders will usually allow an applicant 7 days to serve the Initiating Application (and standard orders) on the respondent (or 14 days for interstate respondents).*

*If you think you might need longer in order to serve the respondent you should select 'yes' below and specify the extra time you require so this can be reflected in the standard orders that are issued.*

*For example:*

*(This Initiating Application will be issued by NTCAT with standard orders requiring that it be served on the respondent(s) by a particular time – usually 7 days after the date of issue (14 days for interstate respondents). If you expect difficulty serving the respondent(s) by that time, you should answer 'yes' below and indicate the extra time you seek).*

IS EXTRA TIME REQUIRED TO SERVE THE INITIATING APPLICATION ON THE RESPONDENT?

YES

NO

*(If 'yes' please specify the extra time required).*

The respondent has been avoiding me and I think I may need longer than a week to serve him with the initiating application. I seek a period of 28 days.

## SIGNATURE

*A person signing as a representative of an applicant warrants to NTCAT that he/she has the lawful authority to do so. Evidence of this authority may be requested when the matter is heard by NTCAT.*

SIGNATURE OF APPLICANT OR APPLICANT'S REPRESENTATIVE:<sup>1</sup>

*Fred Brown*

NAME OF APPLICANT OR APPLICANT'S REPRESENTATIVE:

DATE: 17 September 2018

## **IMPORTANT NOTICE**

**THE RESPONDENT/S MUST BE SERVED WITH BOTH THE SEALED INITIATING APPLICATION AND NTCAT ORDERS**

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