



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 in *blue italics* is provided as general guidance about the different parts of the Form 2 Response.

The information in *green* is provided as a fictitious example of the type of information you might 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.

It is an applicant's responsibility to identify the parties by their correct legal name in the Initiating Application. If a respondent considers that a party has been incorrectly identified by an applicant this can be raised in the details of response (see Part C below).

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.

It is important that the applicant and NTCAT have 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.

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

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.

You need to make clear to the applicant what decision, you want NTCAT to make in relation to the application. 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.

A respondent who disputes the matters claimed by an applicant might seek an order dismissing the application either in whole or (if some aspects of the claim are not disputed) in part. A respondent who makes a counterclaim for an amount greater than claimed by the applicant might seek an order for the payment of money.

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 claims made by the applicant.

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.

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.

If there are facts relied upon by the applicant that you do not dispute, you should make this clear in your Response.

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

For example:

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

[In this example, the applicant has made a claim under the Small Claims Act for an amount of \$5,000 for the installation of windows at the respondent's house.]

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

I agree I had an agreement with the applicant, but it was only for the supply of windows for my house and not installation.

I have paid the applicant in full for the supply of 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 and I have paid that company in full.

SIGNATURE

A person signing as a representative of a respondent 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 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.