



## INFORMATION SHEET – COMPULSORY CONFERENCES

Compulsory conferences are conducted by the Northern Territory Civil and Administrative Tribunal (NTCAT) under section 107 of the *Northern Territory Civil and Administrative Tribunal Act* (NTCAT Act).

Compulsory conferences are a dispute resolution method where the parties have an opportunity to meet, discuss the issues in dispute, and explore the possibility of settlement with the assistance of an NTCAT member.

Any NTCAT matter may be referred to a compulsory conference. However, in practice, the decision whether to do so will be affected by the complexity of the matter and/or its urgency.

Generally speaking, the following matters will not be referred to a compulsory conference:

- straightforward matters, such as less complex residential tenancy matters (terminations and compensation for unpaid rent) and some small claims matters (debt recovery); and
- matters which are deemed urgent, such as hardship and urgent repair applications under the *Residential Tenancies Act*.

The remaining matters, both in NTCAT's original and review jurisdiction, will usually be referred to a compulsory conference.

### Preparing for a compulsory conference

If your matter is referred to a compulsory conference, NTCAT will issue standard orders that state the date of the compulsory conference and what you need to do to prepare.

You should bring to the compulsory conference evidence that supports your claim or your response to the claim being made against you. For example, in a residential tenancy matter this may include the residential tenancy agreement, condition reports, and quotes for repairs.

It is important to remember that a compulsory conference is not a hearing, which means the NTCAT member will not make a decision for or against a party.

You should therefore come to the compulsory conference with an open mind and be willing to at least consider the other party's point of view, particularly in relation to the strengths and weaknesses of your case.

### At the compulsory conference

As the name suggests all parties must attend a compulsory conference if ordered to do so. Failure to attend (without good reason) may result in a party being ordered to pay costs or expenses wasted by the other party.

The compulsory conference is conducted by a person appointed by NTCAT, usually a member, whose role is to help you and the other party discuss the issues in dispute and explore ways of resolving the dispute rather than having NTCAT decide what the outcome will be at a hearing.

Generally, two hours is allocated for a compulsory conference. It is expected that within this time-frame most compulsory conferences will either produce a settlement or result in case management directions being made. However, it is up to the NTCAT member conducting the compulsory conference to decide when it ends.

In exceptional cases, where the member is of the opinion that an adjournment or further compulsory conference is likely to result in a settlement being negotiated, this can be ordered.

Compulsory conferences are confidential and not open to the public. What is discussed at a compulsory conference is “without prejudice” meaning it cannot be disclosed to anyone outside of the compulsory conference and it cannot be used or referred to at a hearing unless it is provided as evidence or the parties agree otherwise.

A member who conducts a compulsory conference will have no further involvement in the matter after the conference.

### **Stages of a compulsory conference**

At a compulsory conference, the member will provide an overview of the process and their role.

The role of the member is to assist the parties to:

- identify and clarify the issues in dispute;
- explore options for resolving the dispute without proceeding to a hearing;
- make orders giving effect to any settlement negotiated; or
- (if a settlement is not negotiated) make orders and directions to enable the matter to proceed to a full hearing

Consequently, a compulsory conference has two stages:

#### **Stage One – Negotiations**

The member will take you and the other party through a negotiation process with the aim of assisting you to identify the issues in dispute and explore options for resolving the dispute.

The member’s approach to the negotiations will depend on the type of dispute, but will usually involve:

- an opportunity for each party to give a short summary of the dispute from their perspective;
- a discussion of the main issues that are in dispute; and
- a discussion of options to resolve the dispute to the satisfaction of each party.

Most of the negotiations will be conducted in the presence of all parties. However, sometimes the member may wish to speak to a party in private to clarify issues and discuss settlement options confidentially.

NTCAT expects that all parties are respectful and communicate appropriately during the negotiation process. NTCAT also expects that all parties approach the negotiations with an open mind and in good faith.

It should not be expected that a member will offer any view regarding the likely outcomes of a matter if it goes to a hearing or make any suggestion as to what is a fair settlement.

If, at the end of the negotiation process, the parties agree to a settlement, the NTCAT proceeding concludes. Depending on what is agreed, the parties may sign a Terms of Settlement and ask the member to make orders giving effect to any settlement negotiated.

If a settlement is not negotiated, the member will proceed to stage two of the compulsory conference and make case management orders to enable the matter to proceed to a hearing.

## **Stage Two – Directions**

When a settlement is not negotiated, the member will make orders and directions about future steps to be taken in the proceeding.

In most matters, NTCAT will make orders setting a timetable that outlines what each party needs to do by certain dates and a hearing date that is suitable for the parties.

Sometimes, in particular cases involving complex issues, the member may order that the matter proceed to a directions hearing prior to a final hearing.

In either case a different member will hear the matter at a later date and will not know about your confidential discussions at the compulsory conference.

## **Other issues**

### **Attendance and representation**

Parties are expected to attend the compulsory conference in person to present their case. A party unable to attend in person must obtain NTCAT's permission to attend by phone by way of completing a Form 3 Ordinary Application. Permission to appear by phone is a privilege, not a right, and will be granted on a case-by-case basis taking into account reasons such as health, distance, the type of proceeding, the complexity of the matter and the safety and security of parties.

A person who is permitted to represent you in a proceeding may attend the compulsory conference on your behalf, but only if he or she has extensive knowledge of the issues in dispute and you have given that person the authority to participate in negotiations and settle the matter.

A person representing you in a compulsory conference may be required to produce a written authority that you have signed before they can enter into negotiations on your behalf. They should also have ready access to you for the purpose of obtaining any instructions that may be required to settle the matter.

Even if you are represented (for example, by a legal practitioner or real estate agent), NTCAT encourages you to participate directly in the compulsory conference, because you have personal knowledge of the issues in dispute.

If you cannot attend the scheduled compulsory conference, it is important to contact NTCAT immediately to request an adjournment. If you fail to attend a compulsory conference the member may make orders in your absence.

Likewise, if you reach an agreement with the other party before the compulsory conference, let NTCAT know immediately.

### **Benefits of a compulsory conference**

Compulsory conferences provide a forum in which you can meet with the other party to gain a better understanding of their position and work together to explore options to resolve the dispute.

If a matter cannot be settled and proceeds to a hearing, the outcome will be determined by NTCAT according to the facts and how the law applies to those facts.

Compulsory conferences provide a much greater scope for possible solutions than an NTCAT hearing because the parties have control over the outcome.

At a compulsory conference, the solution can sometimes involve issues and concerns that may be very important to the parties but which may be of little relevance to the strict legal position that will be followed in an NTCAT hearing.

If a matter can be settled at a compulsory conference, it also avoids the time, energy and cost associated with bringing or defending proceedings in a hearing.

Even if you think that your dispute cannot be settled, the negotiation process provides a valuable opportunity to identify and clarify the issues in dispute, which will assist in a hearing.