

# #7 QUICK, FAIR AND CONSISTENT DISPUTE RESOLUTION

Introduce mediation and reported decisions for greater clarity.

## THE PROBLEM

Both tenants and landlords/property managers want to have quick, fair and consistent decisions in resolving tenancy matters. Most tenancy disputes can be settled fairly by mediation using a qualified and experienced mediator. This should be the first step in good dispute resolution process for tenancy matters. However, this does not currently occur.

## THE FACTS

WA is one of the only states where residential tenancy matters go to the Magistrates Court. In most other states, tenancy matters go to a tribunal, which is less formal, less time consuming and less costly than a Court.

At present, there are no reported decisions about Tenancy matters in the Magistrates Court, so it can be difficult

to know how the law is applied in WA. There is only a limited right of judicial review, so there are very few Supreme Court decisions about tenancy law. There is also no right of appeal in tenancy matters at present, even if someone is evicted to homelessness.

The Make Renting Fair WA survey results show that:



60% of respondents had a dispute with their landlord or real estate agent



14% of respondents had ended up in court over a dispute

## THE SOLUTION

To Make Renting Fair we need:

- an easily accessible dispute resolution process
- public record of decisions regarding tenancy law, and
- a right of appeal in tenancy matters that involve evictions or significant financial claims eg: over \$5,000.

Efficient and fair dispute resolution can be achieved through facilitated mediation between parties. If a dispute cannot be settled by mediation, it could be referred to a Tribunal for a decision.

Decisions made by the Tribunal should be reported for transparency and consistency, which allows the public, landlords, property managers and tenants to learn how the Tribunal interprets the laws to make decisions on matters. This would help advocates and lawyers to provide good advice when assisting with tenancy disputes. The State Administrative Tribunal already publishes reported decisions for their existing jurisdiction, this same logic should be applied to tenancy disputes.

“We have been arguing back and forth for months, culminating in [the landlord] refusing to do any further maintenance or repairs. I issued a breach notice and said I would apply to the magistrates court for performance orders if not remedied. They refused... then we received the no-grounds notice of termination in the mail.”

14927

In 2017-18 there were 14,927 residential tenancy applications lodged in the Magistrates Court of Western Australia. <sup>[1]</sup>

4795

In 2018, there were 4795 downloads of the Tenancy WA fact sheet that deals with applying to the magistrates court.

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[1] [https://www.department.justice.wa.gov.au/\\_files/Magistrates-Court-Civil-Report-2013-2018.pdf](https://www.department.justice.wa.gov.au/_files/Magistrates-Court-Civil-Report-2013-2018.pdf)  
Quotes: Make Renting Fair WA survey results (2019)