

Minor civil disputes – appeals

The Queensland Civil and Administrative Tribunal (QCAT) is an independent, accessible tribunal that resolves disputes quickly and inexpensively.

QCAT staff cannot give you advice about whether you should appeal against a decision or whether your application would be successful.

What should I do before I decide to lodge an appeal?

1. Make sure you understand why QCAT made the decision. QCAT may give you reasons when the decision is made. If not, you may [request reasons](#). The tribunal will provide you with the reasons for the decision in written or CD format.
2. If you need help to understand the reasons, please seek [legal advice](#).
3. [Understand the costs](#) involved in appealing a decision.
4. Understand that you may not be given permission to appeal.
5. Understand that if you are given permission to appeal, you may not be successful.

Can I appeal against the decision?

Not every decision of QCAT can be appealed. You need permission to appeal from the QCAT Appeal Tribunal. This permission is called 'leave'. Leave will only be given in certain circumstances.

What will the Appeal Tribunal look at when it decides whether to give leave to appeal?

Generally, the Appeal Tribunal will not give you leave to appeal if your reasons for appealing are that:

- you do not agree with the original decision
- you think another person might have made a different decision
- you have evidence that you did not give to QCAT in the first hearing even though it was available
- QCAT preferred the evidence of another person to your evidence
- QCAT relied on evidence with which you do not agree
- you want another opportunity to present your case in the hope you will get a different outcome.

To receive leave to appeal, you need to show the Appeal Tribunal that there:

- is a reasonable argument the QCAT decision was wrong, for example, if the tribunal applied the wrong legal test
- has been a substantial injustice and an appeal is necessary to correct the decision.

In your application, you have to state why you say QCAT made an error and why there has been a substantial injustice. A substantial injustice does not occur only because you were not successful and the other person won the case.

You must refer to the relevant evidence or the reasons for the decision to prove your case.

This fact sheet provides general information and should not be considered legal advice. If you are unsure about your legal rights, you should seek legal advice. Your individual circumstances should determine any actions taken to resolve your dispute.

How do I ask for leave to appeal?

You must lodge a [Form 39 Application for leave to appeal or appeal](#) and pay any fees.

There are strict time limits for seeking leave to appeal. You must lodge the Form 39 within 28 days of:

- the day you received notice of the decision where reasons are not required to be given; or
- the day you received notice of the decision where reasons were not requested (you have 14 days from the date of receiving a decision to request reasons if they were not given with the decision); or
- the day you were given reasons for the decision; or
- if you applied to QCAT for a renewal, reopening or correction of a mistake – the day that application was finally dealt with.

(Correction of a mistake means a clerical mistake or an error arising from an accidental slip or omission or a material miscalculation of figures in, or a description of, a matter, person or thing mentioned in the decision [see section 135 of the QCAT Act].)

It is recommended if you intend to appeal, you do so as soon as possible. If you do not start your appeal within the time limit, QCAT may refuse to accept your application. You will need to ask for the Appeal Tribunal for an extension of time. Typically, extensions of time are only granted if you have a special reason for the delay.

What effect does applying for leave to appeal have on the QCAT decision?

Normally a decision will take effect on the day it is made. Applying for leave to appeal will not stop the decision taking effect. However, you can ask the Appeal Tribunal to stop the original decision taking effect until your application for leave to appeal is decided. This is called a 'stay' of the decision.

The Appeal Tribunal will only stay the decision in certain circumstances. They will look at the strength of your case, the balance of convenience between the parties, and any other relevant considerations. To apply to stay a decision of QCAT, please lodge a [Form 44 Application to stay a decision](#) at the same time you lodge the Form 39.

Where can I seek legal advice?

You can contact:

- the solicitor of your choice
- [Queensland Law Society](#) or use their [Find a Solicitor service](#)
- your local community legal centre.

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