

6.03 Preparing For Court

This information sheet will help you prepare for a court hearing in the Magistrates Court.

Each court has a different way of hearing cases and this may catch you off guard, so it is important to be well prepared. The person hearing your case has to sit in court all day listening to peoples' stories. Your job is to make it easier for them to understand your case. This is the only chance to tell your side of the story, therefore it is worth spending the time to organise yourself for the court hearing. Being prepared can also help you feel more confident.

Here are some helpful hints:

Organise your documents

Sort all relevant letters, quotes, receipts and agreements into some order. For example, sort by date or the type of problem. One way is to attach post-it notes to your documents or different coloured dividers for categories such as rent receipts or items needing repair. This will ensure you can easily find documents when they are being discussed, or if you want to give them as evidence.

Write a history of what happened

While organising your evidence, make notes about the history of what happened and when. Re-write your notes in a clear and easy to read format that can be used to keep track of what is being said in court. If there has been a series of incidents, you can use one as an example and ask the court if they would like to hear more. Make an extra copy of your history to give to the court.

List points of importance and relevance

Prepare a list of important points to tell the court. They will only want to hear information relevant to what has been written on your application form. If you try to raise new issues you may drag out the hearing, and everyone may get distracted from why you are there.

Write details on each point

Write details for all the points on your list. Talk to people who know about the incidents to remind you of all the details. Make different coloured headings for each point. Under each point note any supporting documents.

An example of a point and relevant details may be:

- "I rang the owner on 15/1/08 and 21/1/08 to ask for the stove to be fixed. There was no response, so I wrote a letter on 26/1/08 to say..."
- show letter you wrote dated 26/1/08;
- show owner's reply dated 15/2/08.

Now make a brief summary of everything you are going to say to use as an introduction

Practise making your statements

You do not have to memorise your statements, but you will want to avoid getting tongue tied when in court. You must know your story without forgetting any of the important or relevant points. You should be able to tell the story in your own words as the court may ask you not to refer to notes.

Decide on your questions

Prepare the questions you want to ask the owner/agent. Write down any questions and refer to chapter [6.04 Going to Court](#) for some further suggestions on questioning the owner/agent. When in court ask your questions one at a time, making sure they are not statements, and try to get the owner to give as much information as possible about what happened. For example, “*Did you receive a letter from me about the leaky roof?*” and “*What did you do about it?*”.

Making sure your witnesses come to court

It is important that your witnesses go to court on the day of the hearing. If you think there is a chance your witness won't turn up you can ask the court registry to issue a summons. This does not cost you anything; you just need to fill in a [Form 13: Summons to Give Evidence and to produce Documents](#).

You will need to lodge your *Form 13* (“summons”) at the Court where the hearing is to take place no less than 14 days before the date of the hearing. The summons will then need to be served on the witness. The court can arrange this for a fee or you can serve it yourself. Ask the court for details on how the summons needs to be served.

When the summons is served on the witness, the witness also needs to be provided with an amount of money to cover their reasonable expenses to attend court, for example the amount of a bus fare from their house to court. You will need to provide this money to the court when you lodge the summons if you wish the court to arrange service of the summons. If you personally serve the summons, you will need to give the money to the witness at the time of service.

A summons will ensure your witness turns up for the hearing. You can let your witness know that they will be served with a summons. You can explain it is for their benefit as it can be used as proof if they have to miss work or classes to appear in court.

If your witness attends the court hearing to give evidence you may need to reimburse them for any costs they have had to bear in order to attend court. For example, if they lost a day's pay or their expenses were more than the money you provided to them when the summons was served.

Role play

Get your friends or family together; have someone play the magistrate and another the owner/agent. Practise presenting your case and finding the documents relevant to your story. Have someone play the part of the owner/agent and ask the difficult questions you may be asked on the day. Practise staying focussed on the question. Remember tell your story to the court. Do not argue with the owner/agent.

Role playing is good preparation. You are less likely to get upset or forget something because you are stunned by what someone has said or things are not going the way you expected. You will have rehearsed and it will be easier to stay calm. If you do not have anyone to role play with, practice presenting your case with a tape recorder, play back the tape and listen to how it sounds. Maybe there is a better way to say it, or perhaps you have forgotten to mention something important.

Court checklist : be ready on the day

- ✓ Know where the court is located and how long it will take to get there.
- ✓ Know the time of the hearing.
- ✓ Organise childcare (if you need to) for the whole day, just in case.
- ✓ Ring your witnesses and arrange a meeting place and time.
- ✓ Have your clothes ready. Dress in business clothes.
- ✓ Have a checklist so you do not forget:
 - your tenancy agreement;
 - all your other documents (letters, receipts etc);
 - pens for taking notes;
 - blank pages of paper;
 - the bus/train timetable; or
 - parking money, and check where parking is available;
 - take something to do while you are waiting (such as a book)
 - go through your papers one last time
- ✓ Get to the court ahead of time to:
 - keep an eye out for the court official and tell them you have arrived; and
 - check where the toilets and telephones are
- ✓ Try not to worry, everyone else is nervous too!

After your hearing, please contact Tenants Advice Service to let us know how it went, and to pass on any suggestions you may have for other tenants preparing for court.

If you have any questions while preparing to go to court, contact Tenants Advice Service or your local Tenancy worker (listed in chapter [1.12 Community Contacts](#)).

List of Tenants' Rights Manual chapters referred to in this info sheet:

- [1.12 Community Contacts](#)
- [6.04 Going to Court](#)