

Magistrates Court (Civil Jurisdiction) Rules 2004—Form 1 Small Claims Court

(see s 404 (1))

Originating application

Application No _____ of [year], between [applicant] and respondent].

To the Registrar:

General declaration

I make the following application in the Small Claims Court. The required information about myself, the respondent and the application is set out below and in the attachment.

Applicant

If the applicant is making the application on his or her own behalf—

Full name and address:

If the applicant is making the application on behalf of a company or other body corporate—

Name of the body and address of registered office:

If the applicant is represented by another person—

Representative's full name and address:

How may the applicant be contacted?

Address for service (within the ACT):

* Telephone No: _____ * DX No: _____ * Fax No: _____

Respondent

If the respondent is a natural person—

Respondent's name and address:

If the respondent is a company or other body corporate—

Name of the body and address of registered office:

Prior attempts to resolve dispute

* The applicant and the respondent have attempted to resolve their dispute in the following manner:

* The applicant and the respondent have made no prior attempts to resolve their dispute.

Date:

[*signed*]

Applicant

* *Strike out where inapplicable*

Attachment A Debt application

What is a debt application?

- A ‘debt application’ is an application to recover a debt.
- You can also recover interest owing on the debt.
- You may also make a debt application to recover a rental bond, but you must go through a formal mediation process first. Ask a registry officer for advice about how to do this.

Grounds of application:

If the application is for the recovery of a rental bond—

* A mediation certificate under the *Landlord and Tenant Act 1949*, section 62AS is attached to this application.

Details of specified amounts sought—

Fee for commencing proceedings: \$

Specified amount sought: \$

* Contractual interest is claimed.

* Interest to be determined by the Small Claims Court is claimed.

Particulars of interest:

—period(s) for which interest is claimed:

—rate(s) of interest:

—total interest accrued to date: \$

Total: \$

Date:

[*signed*]

Applicant

**Strike out where inapplicable*

Attachment B Goods application

What is a goods application?

- A ‘goods application’ is an application dealing with the provision of goods or services.
- You can make a goods application for the recovery of the value of goods or services, for the recovery of goods, for the provision of services or for damages caused by the detention of goods.

Grounds of application:

* Details of any goods to be recovered or services to be provided:

* Details of any damages sought:

Details of specified amounts sought—

Fee for commencing proceedings: \$

If any other specified amount is sought—

Specified amount sought: \$

* Contractual interest is claimed.

* Interest to be determined by the Small Claims Court is claimed.

Particulars of interest:

—period(s) for which interest is claimed:

—rate(s) of interest is claimed:

—total interest accrued to date:

\$

Total: \$

Date:

[*signed*]

Applicant

* *Strike out where inapplicable*

Attachment C Damages application

What is a damages application?

- A ‘damages application’ is an application to recover damages caused by someone else’s actions.

Grounds of application:

Details of damages sought:

Fee for commencing proceedings: \$

Total: \$

Date:

[*signed*]

Applicant

* *Strike out where inapplicable*

Attachment D Nuisance application

What is a nuisance?

- A ‘nuisance’ is an interference with your land, or with your enjoyment of your land.

Example

an overflow from a neighbour’s burst sewerage pipe onto your land

- You can apply for particular orders to deal with the interference.

Example

an order requiring the neighbour to repair the burst pipe

- You can also apply for monetary damages.

Example

compensation for the cost of cleaning up the overflow

Grounds of application:

Remedy sought:

Fee for commencing proceedings: \$

Total: \$

Date:

[*signed*]

Applicant

* *Strike out where inapplicable*

Attachment E Trespass application

What is a trespass?

- A ‘trespass’ is an unauthorised, uninvited entry onto your land.
- If someone remains on your land after being told to leave they are also trespassing.
- You can apply for particular orders to deal with a trespass.

Example

an order requiring a squatter to leave your land

- You can also recover monetary damages.

Example

compensation for damage caused by the squatter

Grounds of application:

Remedy sought:

Fee for commencing proceedings: \$

Total: \$

Date:

[signed]

Applicant

* *Strike out where inapplicable*

Attachment F Debt declaration

What is a debt declaration?

- A ‘debt declaration’ is an order of the Small Claims Court declaring the amount, or a maximum amount, you owe to someone else.
- It could also be an order of the Court declaring you not to be indebted to the other person at all.
- You may also make an application for a debt declaration in relation to the recovery of a rental bond, but the dispute must be referred to a mediator first. Ask a registry officer for advice about how to do this.

Grounds of application:

If the application relates to the recovery of a rental bond—

* A mediation certificate under the *Landlord and Tenant Act 1949*, section 62AS is attached to this application.

Fee for commencing proceedings: \$

The respondent has issued the applicant with a written demand for payment of the following debt: \$

* The applicant is not indebted to the respondent.

* The applicant is indebted to the respondent in the following amount: \$

* The applicant is not indebted to the respondent in an amount exceeding the following: \$

Date:

[*signed*]

Applicant

* Strike out where inapplicable

Endnotes

- 1 This form was originally in the *Magistrates Court (Civil Jurisdiction) Act 1982* (the **authorising Act**), schedule 2. Under amendments made by the *Legislation (Consequential Amendments) Act 2001*, the form was omitted from the authorising Act and became a form approved under section 471 of that Act (see amdt 1.2791, amdt 1.2793).
- 2 Under the *Court Procedures Act 2004* A2004-59, pt 8, this form became a form approved under that Act.
- 3 This republication includes amendments made under the Legislation Act, part 11.3 (Editorial changes).

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