

First Directions Hearing: Preparation Guide

So you've finally decided to lodge a building dispute complaint with the NSW Civil and Administrative Tribunal (NCAT). Your matter will be listed for a First Directions hearing. Read on to know what you need to know and how you can best prepare for it.

Preliminaries

When you have a residential building dispute, as for example, one arising from breach of contract committed by the contractor, the first step you should take is to try to settle things amicably with them. If that fails, you need to lodge a complaint with Fair Trading NSW. If that still doesn't resolve the issue, your next logical step would be to lodge a case directly with the NSW Civil and Administrative Tribunal (NCAT).

What is a First Directions Hearing?

A First Directions hearing is the first in a series of hearings, conducted to speed up the entire proceedings, and to try to see if the matter can be settled by mediation, so that it won't need to undergo further hearings or even a full-blown trial.

What Types of Disputes Does the NCAT Hear?

The NCAT may hear residential building disputes, including, but not limited to:



homeowner's non-payment for building work



building work not carried out as agreed in the contract



incomplete or defective home building work



insurance claims

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What Happens During a First Directions Hearing?

In the first directions hearing, the judge or registrar will usually direct the parties to try to resolve the matter by mediation before it ends up in court.

If mediation fails or one of the parties fails to comply with the direction, the matter comes back for further directions hearings.

Required Documents

The NCAT may make a variety of orders during the First Directions hearing. This might include setting a timetable and deadlines for:

- when each party must file and serve additional pleadings or written submissions;
- when the parties must exchange affidavit evidence or witness statements;
- filing certain documents and when you must supply them to other parties in the proceedings;
- filing expert reports.

Additionally, the court may use the hearing to decide how the parties are to give evidence. This could be given verbally at a hearing, or in affidavit form.

How Should I Prepare for My First Directions Hearing?

1. Know your case and all the relevant facts and circumstances surrounding it. Anticipate the questions the registrar or judge may ask about the details of the dispute, and prepare your cheat sheet accordingly.
2. Prepare all the documentation you need, such as a copy of the construction contract, insurance claims, invoices for repairs, invoices from the builder, pictures showing the damage sustained by the project.
3. Prepare a Joint Statement. Nowadays the NCAT is regularly requiring the parties to prepare a joint statement for the First Directions hearing. You should ensure you comply with all NCAT Orders.
4. Prepare witness statements, expert reports, and affidavits.

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5. Know the schedule of the hearing and be punctual. Sometimes hearings are conducted by phone or conference call. The NCAT will provide details if this option is available. You may also request this option in some limited circumstances.
6. Often, this is an informal hearing with no lawyers. Just you, the registrar or judge, and the builder. Keep calm and confident. However, if your opponent is represented by a lawyer then you probably should consider engaging a lawyer too.

Remember that this is not an adversarial proceeding, but a means of settling the dispute so it won't have to reach trial.

Should you have questions or would like to discuss this matter further, or if you need help preparing the required documents, feel free to give us a call. First consult is absolutely free.

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