

# Understanding Your Rights Stress and Disappointment Claims in Home Building Disputes

Central to homeowner rights under the [Home Building Act](#) are the section 18B statutory warranties. These warranties are automatically implied in all residential building contracts, offering homeowners a safety net against substandard building practices. They cover various aspects, from the quality of the work to ensuring that the construction is completed within a reasonable time. Essentially, these warranties are designed to protect homeowners from the financial and emotional stress of dealing with construction defects or delays, amongst others.

A significant concern for many homeowners is whether they can claim compensation for the emotional toll – stress and disappointment – resulting from a builder's breach of these statutory warranties. While traditionally, claims in contract law focus on financial losses, recent legal developments have opened avenues for homeowners to seek redress for non-economic losses, like emotional distress. The evolving legal landscape, shaped by pivotal court decisions, has begun acknowledging the impact of such breaches on a homeowner's mental well-being.

Understanding these rights is vital for anyone facing [building disputes](#). It empowers you to not only seek compensation for financial losses but also for the emotional distress caused by breaches of the Home Building Act's statutory warranties.

## The Legal Framework for Non-Economic Loss Claims in NCAT and Building Disputes

When faced with the emotional impact of construction issues, homeowners often wonder if the law recognizes their right to compensation for non-economic losses such as stress and disappointment. This section delves into three pivotal legal cases that have shaped the understanding and approach to such claims in the context of [residential building disputes](#).

### Case 1: *Millen v Skyview Homes Pty Ltd* [2021] NSWCATCD 137

In [Millen v Skyview Homes Pty Ltd](#), the New South Wales Civil and Administrative Tribunal (NCAT) addressed the issue of non-economic loss damages, specifically for inconvenience and distress caused by a builder's breach of statutory warranties under the Home Building Act. The homeowner sought compensation for the distress experienced due to defects in her newly built "dream home". The Tribunal acknowledged that such non-economic losses could be compensable. While the homeowner's claim for \$20,000 was deemed excessive, the Tribunal awarded \$2,000, recognizing the emotional impact of the building defects. This case is a noteworthy example for homeowners,

You can be confident that you are getting  
the right legal advice.

as it illustrates that tribunals may award damages for emotional distress resulting from a builder's failure to meet statutory warranties, albeit within reasonable and evidentiary bounds.

### Case 2: *Murphy v Zubkrycki & Anor* [2020] NSWDC 538

The case of *Murphy v Zubkrycki* took a more in-depth look at the compensation for distress and inconvenience in the context of home building defects. Here, the homeowner expressed significant distress due to a retaining wall collapse and other defects. The New South Wales District Court analysed the emotional turmoil she faced, including the potential liability for damages to neighbouring properties. The court recognized that such non-economic damages are exceptional and awarded \$5,000 for her distress. This case reinforces the principle that while claims for emotional distress in contract breaches are not the norm, they can be successful, especially when the distress is linked to physical inconvenience caused by the breach of statutory warranties.

### Case 3: *Moore v Scenic Tours Pty Ltd* [2020] HCA 17

*Moore v Scenic Tours Pty Ltd* is a landmark High Court decision with significant implications for homeowners. In this case, the High Court recognized that disappointment and distress caused by the [breach of a contract](#) intended to provide pleasure or relaxation are compensable losses. The Court specifically distinguished these losses from pain and suffering associated with personal injury. This decision is pivotal as it broadens the scope of recoverable damages in contract law to include non-economic losses like emotional distress, especially in scenarios where the contract's purpose is to provide enjoyment or relaxation – analogous to the enjoyment a homeowner expects from their property. The High Court's interpretation of the Australian Consumer Law, particularly sections 267(3) and 267(4), underscores that a breach can lead to compensation for both the reduction in the value of services and additional foreseeable consequential losses. *Moore v Scenic Tours* represents a significant shift in legal perspective, affirming that emotional distress in the context of contractual breaches, similar to those in [home building contracts](#), can indeed form the basis for legitimate claims.

These cases collectively highlight the evolving legal landscape where non-economic losses, specifically emotional distress and disappointment, are increasingly recognized as compensable in the realm of [home building disputes](#). For homeowners grappling with construction defects and their emotional aftermath, these decisions offer a legal basis for seeking redress beyond mere financial compensation.

## Practical Considerations for Homeowners

As a homeowner facing distress due to building defects or delays, understanding the nuances of claiming compensation for non-economic losses is crucial. The legal precedents set by cases like

You can be confident that you are getting  
the right legal advice.

*Millen v Skyview Homes, Murphy v Zubkrycki, and Moore v Scenic Tours* offer a framework, but there are practical steps and considerations to keep in mind.

## Documenting Your Experience

The foundation of a successful claim for emotional distress is robust documentation. Keep a detailed record of all interactions with the builder, including dates, descriptions of conversations, and any correspondence. Photographs of defects, timelines of work, and notes on how the issues have impacted your daily life and mental well-being are invaluable. This documentation serves as tangible evidence to support your claim.

## Understanding the Limits

While the legal landscape is evolving to recognize claims for stress and disappointment, there are limits. Courts and tribunals assess claims based on reasonableness and evidence. Exaggerated claims or those lacking sufficient evidence are likely to be unsuccessful. It's essential to set realistic expectations about the potential outcomes of your claim.

## Seeking Professional Advice

Navigating the complexities of legal claims for non-economic losses can be challenging. Consulting with a legal professional who specialises in construction law and residential disputes is highly advisable. They can offer personalised advice based on your specific situation and guide you through the process of making a claim.

## Seeking Legal Assistance

In facing home building disputes, the guidance of a seasoned legal expert is invaluable. John Dela Cruz, the principal lawyer at our firm, brings over a decade of experience specialising in [construction law](#). His expertise is instrumental in navigating the complexities of claims for stress and disappointment arising from home building disputes.

If your building dispute exceeds \$30,000, we understand the weight of the decisions you face. To support you in this challenging time, our firm offers a complimentary legal consultation. This session with Mr. Dela Cruz will provide you with tailored insights and strategies to effectively address your situation. Don't navigate this alone; let our expertise guide you towards a resolution that acknowledges the full extent of your experience, both financial and emotional. [Contact us](#) today to schedule your free consultation and take the first step towards asserting your rights and finding a path forward in your home building dispute.

You can be confident that you are getting  
the right legal advice.