

Our ref: 7115305

23 August 2024

Mr Gordon Craven
gordon@gmail.com.au

Dear Mr Craven

I refer to your correspondence dated 27 June 2024 regarding your residential tenancy matter (Q1363-23), your application for leave to appeal or appeal (APL305-23) and your email to the Department of Justice and Attorney-General, dated 26 July 2024 regarding these matters. I apologise for the delay in my response.

While every effort is made to put parties at ease and to keep QCAT matters as informal as possible litigation, by its nature, can be a stressful process and I can clearly see these proceedings have been a cause for concern and frustration to you.

I note the concerns you raised regarding Adjudicator Marshall at the hearing held on 29 August 2023, where your application was dismissed. As a tribunal, QCAT is required to act independently and is not subject to direction or control by any entity. In line with this, the conduct of any matter before QCAT is entirely a matter for the presiding Tribunal Adjudicator, including what evidence they consider necessary to assist them in making a decision.

It is not unusual when deciding disputes for QCAT to hear conflicting evidence from the parties. Decisions as to the nature of evidence allowed at a QCAT hearing are decisions made by the Adjudicator in the exercise of their independent judicial function. I am therefore not able to direct the Adjudicator in relation to the exercise of her independent judicial function or intervene in any matters on behalf of any party.

QCAT treats all applications on their merits and must decide applications according to established legal principles. QCAT's decisions are subject to checks and balances through avenues of appeal. I understand you filed an application for leave to appeal or appeal before the Queensland Civil and Administrative Appeal Tribunal on 21 September 2023, along with an application to reduce the application fee. I note the fee was reduced to \$100.00 as requested.

Directions were issued by the Appeal Tribunal on 26 September 2023 requiring all parties to undertake steps and submit documentation within specified timeframes. These directions also noted the matter would then be determined on the papers after 1 December 2023, unless a party requested an oral hearing. As no request for an oral hearing was received, this application will be considered by the Appeal Tribunal at an on-the-papers hearing when resources permit. An on-the-papers hearing is a hearing heard in the absence of parties. The parties do not make oral submissions and a decision in the case is made based on the written material alone.

I acknowledge the length of time to have your application heard. The increased need for Queenslanders to access QCAT services, seeking resolution of a range of human rights and civil matters, has resulted in a prolonged wait time for the hearing and finalisation of applications across a range of jurisdictions within QCAT.

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As you will understand, every matter is different. The length of time until an application is finalised is impacted by several factors including the complexity of the application, whether any opposing applications are lodged, the availability of the hearing venue and tribunal members, compliance by parties to follow directions issued by the tribunal, the busy hearing schedule of the tribunal, and other general resourcing constraints.

QCAT closely monitors the timeframes to hearing and the nature of the applications. Information is provided on QCAT's website, at www.qcat.qld.gov.au/applications/timeframes, regarding the average time to finalise an application; however, please note these figures represent averages and individual cases may vary.

As your appeal application is still current before the Tribunal, it is inappropriate for me or anyone else at QCAT to provide any further response to the issues raised in your correspondence. I consider the issues raised in your correspondence are best directed to an independent lawyer for legal advice. Detailed information about where to obtain legal advice is available on QCAT's website at www.qcat.qld.gov.au/going-to-the-tribunal/legal-advice-and-representation.

I trust this information is of assistance.

Yours faithfully



Hon Justice Kerri Mellifont
President QCAT