



WELFARE RIGHTS & ADVOCACY SERVICE

Getting your bond back if you are living interstate or overseas and can't appear in court in person

In Western Australia, if a tenant and lessor cannot reach agreement about disposal of the bond at the end of the tenancy, the tenant or the lessor can apply to the Magistrates Court to get the issue resolved.

Information about the bond disposal process can be found at the Tenancy WA website here: <http://www.tenancywa.org.au/wp-content/uploads/Version-2-January-2016-Disposal-of-the-Bond-review-Nov-15-BF.pdf>

If you are living interstate or overseas and can't appear in Court in person you will need to make arrangements with the court to participate in the hearing by **telephone or video link** or make arrangements for **someone to attend** on your behalf.

A tenant should file a Form 6 application for disposal of bond – the current cost is \$53.

If the lessor has applied to Court for your bond you will need to file a Form 5 intention to dispute – the current cost is \$18.

In either case you will also need to lodge a Form 23 (Magistrates Court (Civil Proceedings) Rules 2005 Forms) and request a phone link for participation in the hearing.

You need to attach an affidavit Form 2 (Magistrates Court (Civil Proceedings) Rules 2005 Forms) outlining the reasons why you are not able to attend in person. The affidavit will need to be signed in front of a Registrar or Justice of the Peace or another authorised witness.

You should lodge these forms as soon as possible so that the Court has time to make arrangements.

Almost all Magistrates Courts in Western Australia have video and audio link facilities however you will need to check with the court first for their booking instructions.

Be aware of time differences particularly if you are overseas.

Audio and Video Link is arranged at the Court's discretion. Although audio participation is free appearing by video link can be costly.

In civil matters (which include an application about the disposal of a bond), if an application to appear by video is granted by a Magistrate or Registrar you can complete a booking form and pay the fees.

The booking fee is as follows:

- Intrastate Link = \$97.00;
- Interstate or overseas link = \$144.50;

- Plus an hourly fee per hour or part of an hour = \$76.00.

This fee is paid prior to the hearing of the matter.

The forms required can be downloaded here:

http://www.magistratescourt.wa.gov.au/M/magistrates_court_civil_proceedings_rules_2005_forms.aspx?uid=6287-2246-1169-2684

Contact details for the Magistrates Court

- Magistrates Court WA (9425 2222)
- Armadale Courthouse (9399 0700)
- Fremantle Courthouse (9431 0300)
- Joondalup Courthouse (9400 0700)
- Midland Courthouse (9250 0200)
- Rockingham Courthouse (9527 6433)
- Mandurah Courthouse (9583 1100)
- Regional Courthouses contacts at:
http://www.magistratescourt.wa.gov.au/C/court_locations_contacts.aspx

Before the hearing you may also want to make an **affidavit** (sworn statement) explaining why you are disputing the lessor's application or, if you are the applicant why you believe your bond (or part of your bond) should be returned to you.

In this affidavit you should include an explanation of why you can't be at the hearing as well as the details of your side of the story and details of any proof you have. You may also wish to include copies of all material you will be relying on should the matter go to trial.

The affidavit must be (signed in front of a Registrar or Justice of the Peace or another authorised witness.

Court Representation

Generally parties to a dispute have to represent themselves however a person can be represented by a property manager or tenant advocate pursuant to s22(2) of the Residential Tenancies Act (WA) – the person has to complete a Form 24 (Authorisation for an agent to present a party's case) and lodge it at the court.

If you want advice from a tenant advocate contact the service closest to you/your former rental property – they will be able to provide you with further advice and let you know the level of assistance they can provide.

Services providing tenancy assistance and advice can be found using the following link:

<http://www.tenancywa.org.au/local-tenant-advocate-services/>

Please note: This information contains general information only and is accurate at June 2016. It does not constitute legal advice.