

Sample 1: Application for minor civil dispute – consumer dispute

QCAT

Queensland Civil and Administrative Tribunal

Form Number 1 (version 3)
Queensland Civil and Administrative Tribunal Act 2009 (section 33)

Application for minor civil dispute – consumer dispute

Refer to attached instructions prior to filling out this form.

For office use only

Case number:	
Date filed:	
Registry:	
Fee paid:	
Receipt number:	

PART A APPLICANT'S DETAILS

APPLICANT'S DETAILS

Name

Mrs June Willis

Address

165 Nealdon Street, Holland Park

Postcode 4121

Contacts

(07) 0326 4333

Preferred phone number

(07) 0326 5444

Alternative number

Email

INFORMATION FOR RESPONDENTS

You cannot file a formal response to this application however you may file written submissions in the tribunal attaching copies of any documents upon which you wish to rely. You must also give a copy of your submissions and any attachments to the other party as soon as possible after it has been filed.

You may also file a counter-application against the applicant to this application or against another person. Counter-applications must be made in the *Form 8 - minor civil dispute - counter-application* and lodged with the tribunal.

Application for minor civil dispute – consumer dispute – page 1 of 4

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 1: Application for minor civil dispute – consumer dispute cont’d

PART A APPLICANT'S DETAILS

Representative's details (if applicable)

Tick if you want this to be your address for notices

Tick if you want your representative to represent you in proceedings before the tribunal (see Part A of the instructions – you may be required to seek the tribunal's leave for this to happen by making an application under the Form 56 - Application for leave to be represented. The tribunal may not give you leave to be represented.)

Name

Address

_____ **Postcode** _____

Contacts

() _____ () _____ _____

Preferred phone number Alternative number Email

PART A RESPONDENT'S DETAILS

RESPONDENT'S DETAILS

Name

Super Best Quality F & W Pty Ltd

Address

121 Groversner Avenue Chermside

_____ **Postcode** 4032

Contacts

(07) 0456 8210 () _____ _____

Preferred phone number Alternative number Email

PART B GENERAL DISPUTE DETAILS

1. **What are you seeking?** Tick applicable and insert amount. If ticked, please include details in Part C below.

<input type="checkbox"/> payment of money to me	\$	
<input checked="" type="checkbox"/> refund of money to me	\$	1,240.00
<input type="checkbox"/> relief from payment of money by me	\$	
<input checked="" type="checkbox"/> return of goods	\$	
<input type="checkbox"/> rectification of work	\$	
<input type="checkbox"/> costs of transporting a motor vehicle to the respondent if claimable	\$	
<input type="checkbox"/> payment of the filing fee for this application	\$	
TOTAL	\$	1,240.00

Application for minor civil dispute – consumer dispute – page 2 of 4

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 1: Application for minor civil dispute – consumer dispute cont’d

PART C DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL	
<i>If there is insufficient space here, please attach additional pages.</i>	
1. I want the tribunal to make the following order/s:	<i>Insert orders sought in numbered paragraphs.</i>
(1)	That the Respondent take the Missini couch back
(2)	That the Respondent refund me the \$1,240.00 for the purchase price and delivery fee of the couch.

PART C DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL (continued)	
<i>If there is insufficient space here, please attach additional pages.</i>	
2. The reason I am seeking orders from the tribunal	<i>Outline the basis for your claim, including details of any agreement or contract and attach the documents you seek to rely on. Please refer to the instructions for completing this form for assistance with what information may be required.</i>
(1)	I purchased a Missini four seater couch model number 321 from Super Best Quality F & W Pty Ltd (Trading as Super Best) on 6th November 2016.
(2)	I paid \$1,200.00 plus an additional \$40.00 for delivery, by credit card.
(3)	The couch was delivered on 8th November 2016, and unpacked by the delivery men.
(4)	After they left I inspected the couch and found that the inner springs were broken in places and were poking out. The wooden frame was also chipped and you could feel the springs when you sit on the couch.
(5)	I have contacted Super Best by telephone and I've sent them two (2) letters but they deny all responsibility and have refused to replace the couch or refund my money.

Application for minor civil dispute – consumer dispute – page 3 of 4

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 1: Application for minor civil dispute – consumer dispute cont'd

QCAT

Queensland Civil and Administrative Tribunal

Instructions for completing

Application for minor civil dispute – consumer dispute

Use this form if your claim is not more than \$25,000 and is

- Between a consumer and a trader about goods or services;
- Between traders about goods or services
- A dispute about property damage caused by a motor vehicle incident; or
- A dispute about the repair of a defect in a motor vehicle.

A “consumer dispute” is between a consumer and a trader, or between traders.

Consumer and trader disputes involve disputes against trader arising out of a contract for the supply of goods or services, valued up to and including \$25,000.

For example:

- Goods include food, clothes, appliances and furniture;
- Services include repairing a defect in a motor vehicle, car maintenance, meals served in restaurants and a haircut by a hairdresser.

However, your dispute may be a debt dispute not a consumer and trader dispute, if it is about a fixed or agreed sum of money valued up to and including \$25,000 e.g. a debt resulting from overhanging branches an IOU or money lent and not repaid. If your dispute is for an agreed sum of money you may need to complete the *Form 3 – application for minor civil dispute – minor debt*. For more information visit www.qcat.qld.gov.au or call 1300 753 228.

Who is a trader?

Please refer to the definition of “trader” in the *Queensland Civil and Administrative Tribunal Act 2009*.

A trader is a person who in trade or commerce has a business that supplies goods or provides services. However, a trader is not a person who supplies goods or provides services if that work is not ordinarily regarded as being within trade or commerce. Examples of persons who are not within the definition of traders are lawyers, dentists, valuers, podiatrists or professional town planning consultants.

HOW TO COMPLETE FORM 1 – APPLICATION FOR MINOR CIVIL DISPUTE – CONSUMER DISPUTE

Copies of the application and providing copies to other parties

When lodging your original application and any attachments, you must also provide two copies of all of the documentation being lodged and a stamped, self-addressed envelope. If there is more than one respondent, you must include an extra copy of the application form and attachments for each additional respondent.

The tribunal will return sealed copies to you, at the address you provide.

Generally, you must then give a copy of the application to all parties to the proceeding as soon as practicable, and no later than seven (7) days after the application is filed.

Instructions for completing - Application for minor civil dispute – consumer dispute – page 1 of 5

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 1: Application for minor civil dispute – consumer dispute cont’d

Instructions for completing (continued)

Applications may be lodged in person or by post

By post: QCAT, GPO Box 1639, Brisbane QLD 4001

If you are posting your original application and copies to QCAT, you need to include a stamped self-addressed A4 envelope with your application.

In person: QCAT, Level 9, Bank of Queensland Building, 259 Queen Street, Brisbane QLD 4000, or at any Magistrates Court outside of the Brisbane CBD.

To find your nearest Magistrates Court, look under "Justice and Attorney-General" in the phone book or visit www.courts.qld.gov.au. For more information visit www.qcat.qld.gov.au or call 1300 753 228.

Applications must be accompanied by the prescribed application fee

For more information on QCAT fees visit www.qcat.qld.gov.au. Payment can be made by cash, cheque (payable to Department of Justice and Attorney-General), money order or credit card payment authorisation (see Credit card payment authorisation form – MasterCard and Visa accepted).

PART A – APPLICANT AND RESPONDENT DETAILS

- More than one applicant or respondent can be named in an application.
- If there is insufficient space for the names of either applicant or respondent, you may attach additional pages with similar details.

If the applicant or respondent is not an individual then the correct name must be used e.g. a company name, a business name (whether it is registered or not) or the name of a State agency or department. You must also state the correct ABN/ACN for the company or business name. Please refer to the tribunal's factsheet *How to identify and name the parties in QCAT* available at www.qcat.qld.gov.au

Your address will be the address at which documents are given or sent to you, unless you indicate your representative's address as your address for notices. If you change your address, you must file in the tribunal and serve on all other parties a notice of change of contact details form.

Representative's details

If you want your representative's address as the address for notices, please complete your representative's details. If you want your representative to represent you in any proceedings before the tribunal you must complete the form *Form 56 - Application for leave to be represented*. Generally the tribunal expects people to represent themselves. The decision regarding representation will be decided by the tribunal.

You are not required to seek leave to be represented if:

- you are a child or a person with impaired capacity
- relevant laws state that you may be legally represented.

COMPLETING PART B – GENERAL DISPUTE DETAILS

Please tick the relevant boxes and provide details.

Sample 1: Application for minor civil dispute – consumer dispute cont’d

Instructions for completing (continued)

COMPLETING PART C – DETAILS OF WHAT YOU SEEK FROM THE TRIBUNAL

You must outline what orders you want the tribunal to make and what the dispute is about. Complete Part C by outlining your claim, the brief facts of the matter and why you want the tribunal to make the orders you seek. Refer to the information below for guidance about what information the tribunal needs to make a decision about your application.

DISPUTES ABOUT GOODS OR SERVICES

You may make an application if:

- you are a consumer who feels that a trader has not treated you in the way that was agreed.
- you are a trader who disputes a spoken or written agreement with another trader who has provided goods or services.

Proving your case - you will need to provide details of your claim to the tribunal.

For disputes about goods:

- write the date of your written or oral agreement with the respondent, for example, the date you bought the goods
- describe the goods (give the brand name, model number, serial number, registered number, size, quality, etc.)
- write how much you agreed to pay, including any trade-in
- write the date the goods were delivered
- write the date you paid the amount and the date you delivered the trade-in to the respondent
- write what was said by the respondent about the quality of the goods or the way they would perform. Who made the statements? What was their position in the company or business?
- briefly describe the problems you have had with the goods
- explain any repairs, and how much they cost – the amount will be the amount of your claim. Attach any written invoices/quotes or receipts
- explain what must be done to correct the problems or faults, attach any written quotes or reports
- if the goods cannot be repaired, set out how much it will cost to replace them and attach a written quote

For disputes about services:

- write the date of your written or oral agreement with the respondent, for example the date you accepted the quote
- briefly describe the services the trader agreed to provide
- write the amount you agreed to pay
- write the date on which the trader provided the services
- write the date and amount you paid
- briefly describe the problems you have had with the services
- explain any problems, and how much they cost to fix – the amount will be the amount of your claim. Attach any written invoices/quotes or receipts
- explain what must be done to correct the problems or faults, attach any written quotes or reports
- if the problems cannot be fixed, mention how much it will cost to replace the services and attach a written quote

Instructions for completing - Application for minor civil dispute – consumer dispute – page 3 of 5

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 1: Application for minor civil dispute – consumer dispute cont’d

Instructions for completing (continued)

FOR A DISPUTE ABOUT THE REPAIR OF A DEFECT IN A MOTOR VEHICLE

You may make an application for the repair of a defect in a motor vehicle which is under a statutory warranty.

Proving your case - you will need to provide details of your claim to the tribunal.

- write the date that the motor vehicle was bought
- write the make and model of the vehicle, and the year it was manufactured
- write the odometer reading at time of purchase
- attach a copy of the defect notice that was given to the respondent, and write the date that the defect notice was given
- write how far away (the distance in km) the respondent resided or had their place of business from your residence or place of business and the costs of transporting your vehicle to the respondent
- if the respondent refused to accept the motor vehicle, write the date of refusal
- indicate whether the vehicle was repaired within 14 days of the respondent accepting the motor vehicle
- indicate whether the defect has not been repaired properly
- write the day that the respondent, or their nominated repairer, accepted the vehicle
- attach a copy of the repair invoice

FOR DISPUTES ABOUT PROPERTY DAMAGE CAUSED BY A VEHICLE

- write the time, date and place of the incident
- write the make and model of your vehicle (if applicable), the registration number and who was driving it at the time of the accident
- write the make and model of the respondent's vehicle, the registration number and the name and address of the driver (and if appropriate, the name and address of the owner or employer)
- explain how the incident happened fully and simply and say what the other driver did
- attach an extra sheet of paper to your claim and draw a sketch of what happened. Show street names, the location of traffic signs and lights, the number of traffic lanes, the position of traffic islands and double lines, and the position of each vehicle at the time of collision. Please mention if the driver was charged by the police with a traffic offence
- write how much you were quoted for repairs and attach any quote(s). Obtain written quotes for both labour and parts – the amount of your claim should be the quote you think is reasonable. You will need to get a quote and affidavit from the repairer
- If the cost of repairs to your vehicle is more than the vehicle is worth, get a loss assessor/adjuster to give a written valuation of your vehicle before it was damaged. The loss assessor should also fill out an affidavit

PROVING YOUR CASE

Have you included a copy of all the relevant documents and evidence? You must include a copy of all of the relevant documents that you want to use and rely on.

You must print out all electronic evidence

Sometimes evidence (such as photos or receipts) may be stored in an electronic device, such as a mobile phone, tablet or computer. Sometimes evidence may be stored on a CD or DVD. You must provide a printed copy of this evidence with your application if you wish to use and rely on it at the hearing. The Tribunal will not accept a CD or DVD for filing and will not consider evidence provided only in an electronic format.

Instructions for completing - Application for minor civil dispute – consumer dispute – page 4 of 5

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au

Sample 1: Application for minor civil dispute – consumer dispute cont’d

Instructions for completing (continued)

Witnesses

If you have a witness, that person should complete an affidavit setting out their evidence. You should provide this evidence before the hearing. Your witness may be required to answer questions at the hearing. If the witness cannot attend the hearing in person, they should be available by telephone.

Your Information

QCAT collects your contact details for the purposes of compliance with the *Queensland Civil and Administrative Tribunal Act 2009* in relation to proceedings in QCAT. QCAT may contact you to seek your assistance in research to assist in the evaluation of the operation of QCAT. You are not obliged to participate in feedback or surveys. If you do participate no identifying particulars will be published. QCAT will not disclose your contact details or any other personal information to a third party unless required by law.

Instructions for completing - Application for minor civil dispute – consumer dispute – page 5 of 5

For more information on QCAT: Call 1300 753 228 or visit www.qcat.qld.gov.au