



Fact Sheet 18: Inspections

Tenants of Housing ACT have the same rights and obligations as all other tenants in relation to providing access for inspections. Your rights are set out in your tenancy agreement, the Standard Residential Tenancy Terms (SRTT) which is the Schedule to the Residential Tenancies Act 1997. The relevant terms are clauses 75 to 82.

In summary, Housing ACT can only require access to your home in accordance with the law, or by order of the ACT Civil and Administrative Tribunal (ACAT or 'the Tribunal'). You can allow access as often as you like and whenever you like, but there are certain times when access cannot be demanded. These are:

- On Sundays, or
- public holidays, or
- before 8 am and after 6 pm.

The exception would be if there were serious health and safety reasons requiring urgent access.

Inspections – How Often?

Generally, Housing may only inspect your home 2 times in any 12 month period, apart from an additional inspection within the first month of a new tenancy and within the last month of the end of a tenancy.

In practice, Housing ACT generally conducts 1 inspection per year. If there are concerns about the condition of the property they may conduct an additional inspection within that year. However, Housing must not impose 3 monthly or 6 weekly or monthly inspections on any tenant without an order of the Tribunal, unless the tenant agrees to such frequent inspections. It may be put to you that it is in your interests to agree to a time frame for tidying up or cleaning your home bit by bit, with an inspection at regular intervals to help you stick to that time frame. You may find that helpful and you may agree to it. However, you do not have to agree to this if you do not feel it is necessary or helpful.

Notice of Inspection

Housing must give you 1 week's notice in writing of an inspection. This is usually in the form of a letter which is headed "Client Services Visit" and states a date and time at which the visit, for the purpose of an inspection, is scheduled. The particular day or time may not be convenient for you. You have the right to propose an alternative time.

Under clause 79 of the SRTT, "*the inspection must take place at a time agreed between the parties with reasonable regard to the work and other commitments both of the tenant and of the lessor (or their agents)*".

The same clause also says that "*If the parties are unable to agree on an appropriate time, the lessor or the tenant may apply to the tribunal for an order permitting access at a specified time*".

In practice, Housing ACT regularly makes an application to the tribunal after 2 failed attempts to schedule an inspection. In some cases the failure is not the result of the tenant simply refusing an inspection, it is a result of a lack of negotiation.

It is important for the tenant to communicate directly with the Housing Manager to negotiate an alternative time and then be at home to provide access at that time.

Housing ACT does not have the right to, and will not, enter your home in your absence. If necessary, you can authorise another person to provide access on your behalf but Housing will require this authorization in writing.

What happens if Housing applies to ACAT?

You will receive notice from ACAT of Housing's application for an access order. You have the right to attend a hearing of the matter, but you will need to advise ACAT that you wish to attend. If you attend the hearing it is likely that ACAT will make an order for an inspection at a time that both you and Housing agree upon.

However, this whole process can be avoided by an active response on your part to the notice of an inspection. Even after Housing has made an application to the tribunal for an access order, it is possible to negotiate a time for the inspection and, providing it takes place prior to the date of the access hearing, Housing will usually withdraw their application as it is no longer required.

What happens if ACAT makes an order for access?

Usually an access order made by ACAT will state the day and time access is to take place, and it will state that Housing may enter the premises if the tenant does not open the door to them.

Access for Repairs

Clause 82 of the SRTT says that the lessor may give the tenant 1 week's notice and "may enter the premises at a reasonable time" for the purpose of making or inspecting repairs. In practice, the making and inspecting of repairs is done by Spotless, Housing's maintenance contractors, and very little notice may be received by the tenant that Spotless is coming to do a repair. If Housing has the perception that there are any difficulties in gaining access for the purpose of repairs, they will generally make an application to ACAT for access.

Disclaimer

This fact sheet contains general information available at the time of printing. It does not constitute legal advice. If you have a specific legal problem, please contact Canberra Community Law's advice line on 02 6218 7977.

Canberra Community Law is entirely independent of Housing ACT. All assistance is free.

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