



Fact Sheet 12: Payment Orders

1. What is a Payment order?

A Payment Order is an order that the ACT Civil and Administrative Tribunal (the Tribunal) can make if you have fallen behind on your rent and Housing ACT has applied to the Tribunal to have you evicted because of the rent arrears (rent debt). If you can prove to the Tribunal that you will pay your rent on time and make payments towards your rent debt, then the Tribunal can make a Payment Order instead of evicting you.

A payment order is like a long payment plan. If the Tribunal makes a payment order, you are allowed to remain in your home if you agree to pay your rent and make a payment towards your rent debt regularly and on time.

You do not need to pay all your rent debt straight away, but you need to be able to show that you can consistently make payments towards your rent debt as well as your usual rent. For someone on a low income, the Tribunal is likely to expect payments of around \$30-\$50 a fortnight towards the rent debt.

After the Payment Order is made you should make sure that you pay your rent and rent debt on time. If you don't Housing ACT has 60 days to apply to the Tribunal again to have you evicted.

2. What is the Difference Between a Payment order and a Conditional Termination and Possession order?

On 14 December 2018 the law changed, and Payment Orders replaced what was called a Conditional Termination and Possession Order (CTPO). The main difference between the Payment Order and the CTPO is that with the CTPO if you did not pay your rent and make payments towards your rent debt on time, your tenancy agreement would automatically end, and Housing ACT could then ask the Tribunal for a warrant to have you removed from your home.

This was not a good system because sometimes tenants were one day behind on their rent or their Centrelink payments had been cut off and they would end up having to come back to the Tribunal to argue their case again and if they didn't turn up they were evicted. The new law gives Housing ACT the option of not having to bring the case back to the Tribunal if the error was administrative or if it has been satisfactorily addressed. If Housing ACT does bring the case back to the Tribunal, it gives the tenant another chance to explain why they have fallen behind and to show that they will pay their rent and rent debt if given another chance. But if the second time around the tenant again breaches the order and Housing ACT brings it back to the Tribunal, the Tribunal can terminate the tenancy and Housing ACT doesn't have to apply for a warrant to have the tenant evicted.

If the Tribunal ordered a CTPO for you before the law changed, the CTPO will automatically become a Payment Order. This means that the new law applies to you.

3. Who Can Payment Orders apply to?

Payment Orders can be made for any tenant in the ACT.

4. How do you prove that you will make the payments?

The Tribunal will usually look at what has been going on in your life and why you haven't been paying your rent.

They will usually consider:

- Your rent history (i.e, whether you have paid on time in the past);
- The amount of arrears/rent debt and the amount of rent you are required to pay;
- How many times you failed to pay the correct amount of rent;

- Any other debts you might have, for example on credit cards;
- Your income;
- What has caused you to fall behind on your rent and how you are trying to address these issues;
- If your circumstances have changed, then the steps you have taken to take control and ensure your rent is paid – for example:
 - If you had trouble making regular manual payments, have you started paying by a method that is more reliable, like a bank or Centrelink direct debit?
 - If you had trouble paying rent because of difficulty managing your finances, have you sought financial advice, for example from CARE Financial Counselling Service?
- If you have started paying rent again, how much rent you have paid recently;
- If you have started arrears/rent debt payments, how regularly you are making those payments and how much of the debt you have paid;
- It is very important that you can show that the situation has improved so you won't fall into arrears again. We highly recommend that you seek financial advice and prepare a budget, demonstrating that you will be able to sustain payments under a Payment Order; and
- It is also very important that you agree to pay off your rent debt and pay your rent on time.

5. What Happens after a Payment order is Made?

It is very important that you check to make sure that your rent and the payment towards the arrears/rent debt has been paid on time to Housing ACT.

If you have a Centrelink direct debit and Centrelink does not take out the right amount, make sure you get in touch with Centrelink straight away and let Housing ACT know what is going on. You may need to make a manual payment in the meantime.

Access to Interpreters

The ACT Government is committed to ensuring that Canberra residents, regardless of their background, have equal access to its programs and services. It is ACT Government policy to use professional interpreters when speaking with people who have difficulty communicating in English.

You are entitled to an interpreter free of charge when dealing with an ACT Government directorate or agency (such as Housing ACT and shopfronts).

Simply ask a staff member you are dealing with to arrange an interpreter.

Disclaimer

This factsheet 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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