



Fact Sheet 12: Payment Order

Summary

- A Payment Order is an order that the ACT Civil and Administrative Tribunal (ACAT) can make if you have fallen behind on your rent and Housing ACT has applied to have you evicted.
- Instead of ordering you to be evicted from your Housing ACT property, ACAT may make a payment order. This means they will require you to pay your fortnightly rent and pay back the rent you owe in instalments to Housing ACT.
- ACAT will only make a payment order if they are convinced that you are able to pay your rent, and that you will make regular payments towards your rent debt on time. For someone on a low income, ACAT is likely to expect you to make payments to Housing ACT of around \$30-\$50 a fortnight. This is on top of your rent, which will also form part of the payment order.
- If you become unable to pay your rent and rent debt on time, it is important that you let Housing ACT know early. If you do not keep in regular contact with Housing ACT to discuss how you will make up any missed payments, they may apply to ACAT again to have you evicted.

What is payment order?

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

A payment order is like a long payment plan. If ACAT makes a payment order, you are allowed to remain in your home if you agree to pay your rent and make payments towards your rent debt each fortnight 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, ACAT 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 do not, Housing ACT has 60

days to apply to ACAT again to have you evicted. Housing ACT can go back to ACAT seeking your eviction without having to issue you with any further notices.

How do you prove that you will make the payments?

When deciding whether to make a Payment Order, ACAT will look at what has been going on in your life and why you have not been paying your rent.

ACAT may (and will generally) 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 rent¹
- Any other debts you might have, for example on credit cards;
- Your income;
- Your personal circumstances (for example, illness or family law issues);

¹ See, eg Commissioner for Social Housing v Handley [2006] ACTRTT 16 (7 July 2006).

- 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 Housing ACT direct deduction
 - If you had trouble paying rent because of difficulty managing your finances, have you sought financial advice, for example from CARE Financial Counselling Service on 1800 007 007?
- 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;
- Whether you can show that the situation has improved so you will not fall into arrears again. We highly recommend that you see a financial counsellor and get some help to prepare a budget, demonstrating that you will be able to make payments under a Payment Order; and
- Whether you agree to pay off your rent debt and pay your rent on time.

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 are able to set up a Housing ACT direct debit, an automatic BPay, or a direct debit from your bank, this can help ensure you make your payments on time.

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

If at any time you become unable to make the repayments you agreed to under the order, you should let Housing ACT know. It is also

important to keep in regular contact with Housing ACT and to discuss with Housing ACT how you intend to make up any missed payments. Housing ACT is less likely to take action against you for breaching a payment order if you stay in regular contact with them and are making up the missed payments. If you cannot make the repayments under your payment order, and this is due to a change of circumstances or likely to last for a long time, please get back in contact with Canberra Community Law for advice.

How Canberra Community Law can assist?

Please note that Canberra Community Law provides an independent and free duty lawyer service at ACAT and can assist you to defend an eviction proceeding. If you have received notice that Housing ACT has made an eviction application to ACAT please get in touch with Canberra Community Law on 6218 7900 for assistance.

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 publication. It does not constitute legal advice. If you have a specific legal problem, please contact Canberra Community Law's advice line on 02 6218 7900.

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

June 2023