



Lower-value WHRS claim adjudication information

This information sheet provides you with details of the adjudication process for lower-value WHRS claims.

OVERVIEW OF THE ADJUDICATION PROCESS

Adjudication is a judicial process in which an independent person (the Tribunal Member) determines the parties' dispute. Adjudication is undertaken by the Weathertight Homes Tribunal (the Tribunal), supported by the Ministry of Justice.

For lower-value claims, adjudication can only be initiated after informal resolution methods such as negotiation and mediation have been tried. This is to ensure the process is cost-effective for everyone involved. If you wish to go to adjudication, your application to the Tribunal will need to be accompanied by a certificate from the Chief Executive of the Department of Building and Housing confirming that you have made reasonable attempts to resolve the claim through the above methods. If the Chief Executive believes that you could reach settlement through negotiation or mediation, they will not provide the certificate until this has been attempted or re-attempted.

In most cases the Tribunal will deal with lower-value claims on paper only with no formal hearing taking place. The Tribunal will manage the claim as efficiently as possible to limit costs to all parties. After you and the respondents have put forward your cases, the Tribunal makes a decision according to law. The Tribunal's decision is binding, but there are rights of appeal to the District Court for lower-value claims.

Once the process has begun, certain stages have time limits. However, it will generally take longer to get through the adjudication process than through mediation.

The Tribunal has considerable powers. They may, among other things:

- request additional information or submissions
- order people to become respondents if they think it is desirable
- ask for additional documents
- appoint experts or carry out visits of the building concerned
- decide that a particular party must pay costs and expenses in limited circumstances.

The parties to the adjudication are required to comply with any request or direction of the Tribunal Member.

The Tribunal Member will make a decision on the information provided to them. In most cases, there will not be a hearing. The decision will state which parties are liable and what remedies there should be. This decision must be treated as an order of the District Court and may be directly enforced in the same way as a District Court order.

MAKING AN APPLICATION

If the Chief Executive has provided you with a certificate confirming you have attempted negotiation and/or mediation, then Weathertight Services will provide you with an application form to apply to the Tribunal. Your settlement advisor will help you complete the application form. You will then need to serve your application on the Tribunal (accompanied by the filing fee of \$400) and on the respondents. Your settlement advisor can provide you with advice on how to serve the documents. Further information on service is included below.

SERVICE

Once you have completed your application and have all the documents required on the application form, you must serve the application and the documents on the Tribunal and on the respondents you have named. If you have a legal advisor, they can undertake this service for you. Your settlement advisor can also provide you

with guidance on how to undertake this process and on finding appropriate addresses for the respondents.

The following are the main points to consider when serving.

- A document is served if it is:
 - delivered to that person
 - left at that person's usual or last known place of residence or business in New Zealand
 - posted in a letter addressed to that person at that person's place of residence or business in New Zealand.
- The WHRS Act requires that a copy of Weathertight Services assessor's report is served along with the application. Other documents that you need to serve will be detailed on the application form.
- The Tribunal may require proof of service. This means you should have a record of who was served, what address they were served at and what was served. The best way to do this is to courier the documents and retain the tracking label. You should also take copies of the courier packet once it is addressed to show exactly what address the documents were sent to. If you choose to send them by normal post you should also keep copies of the original documents and the addressee list.
- The addresses you serve the documents on should be physical addresses where possible – not PO boxes.
- Service can only be undertaken by email if you obtain the consent of the respondent concerned before service occurs.
- If an address cannot be found for the respondent but you know of a family member or close associate that knows their whereabouts, you can apply to the Tribunal for permission to undertake substituted service on that person.
- When copying documents for service the copies should be of good quality and in colour if appropriate. This is particularly applicable for any reports that contain photographs detailing damage.