

## Directions and Final Hearings: What You Need to Know

If you are in the middle of a building dispute and would like to lodge a case with the Victoria Civil and Administrative Tribunal (VCAT), here are some things you should know.

### Resolving a Building Dispute: Your Options

If you're a homeowner and you're in the middle of a domestic building dispute (which may be about a domestic building work, or a domestic building contract), you have the following remedies:



1. Settling the dispute amicably with the builder.



2. Lodging a case with the **Domestic Building Dispute Resolution Victoria (DBDRV)**.



3. Lodging a case with the **Victoria Civil and Administrative Tribunal (VCAT)**.

These remedies are exhaustive, meaning, before you can choose number 3, you must've first gone and done numbers 1 and then 2, and both must've failed.

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In fact, for the VCAT to accept your case, you need to present any of the following, from the DBDRV:

- a certificate of conciliation
- a rejection letter
- a confirmation of complaint letter from BACV
- a dispute resolution order
- a notice of breach of dispute resolution order

Otherwise, the VCAT will not accept your application/complaint (except if it involves a petition for injunction).

## The VCAT Hearings

Supposing you've already tried to settle with your builder, but the issue still persists. And supposing you've gone to the DBDRV, but the dispute still has not been resolved or you were issued one of the certifications/orders listed above. Your next step is to lodge a case with the VCAT, where one of three things may happen:

- your dispute will be settled during mediation;
- your dispute will be settled during the directions hearings;
- the tribunal, after the Final hearing, will issue an Order which is enforceable in court

## Directions Hearings

After your case is successfully lodged with the VCAT, your matter will be scheduled for Directions hearings. Directions hearings may be a single hearing, or a series of hearings, presided by a member of the VCAT, for the purpose of making the entire building dispute settlement proceedings shorter and swifter.

Some key points:

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Directions hearings may be called by a member of the VCAT, or may be applied for by you.

Directions hearings are short, rarely lasting more than 30 minutes per session.

At the directions hearing, the VCAT member may:

- clarify and explore ways to resolve any issues that are raised
- make orders for parties to send documents and other materials to the VCAT and to each other by certain dates
- decide if there should be a mediation or compulsory conference and set the date, time, and location
- order physical evidence to be inspected by an expert witness
- make a final order to confirm an agreement between the parties
- decide any legal issues raised
- set the date and location for the final hearing

Directions hearings may be done by phone or by videoconferencing.

You (or your representative, if you have one) need to attend the hearings. The hearings will proceed with or without you (or your representative), and the VCAT may make decisions or final orders that negatively impact you.

## Final Hearing

After the Directions hearings have been concluded, and there is still no resolution on the building dispute, the case will be scheduled for a Final hearing.

The Final hearing is different from the Directions hearings, as the former involves the examination of witnesses and of evidence. The purpose of the Final hearing is to examine the evidence and the witnesses of both sides, for the VCAT to arrive at a decision finally resolving the dispute, in which case, the VCAT will issue the corresponding Order, which is enforceable in court.

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The Final hearing (which may last anywhere between one to several days), is your final pitch, your last chance to present your case.

You need to carefully prepare your case, gather all your evidence and supporting documents, offer and present them properly, and arrange for witnesses to be called to the stand.

As far as preparations go, you will need to know:

- what you're going to say to the VCAT member
- what you're going to ask your own witness
- what you're going to ask your opponent's witness

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- Notice of Hearing
- Points of Claim
- Witness Statements
- supporting documents
- your opponent's documents

Once the VCAT member has listened to both sides, they will make a decision.

Decisions may be made on the same day the Final hearing is concluded; or made later, in which case, the VCAT will let you know when it will be given.

Orders issued are enforceable in court.

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## How We Can Help You

Since Directions and Final hearings are document-intensive and involve a lot of legwork, it is recommended that you engage a construction lawyer to help you fully prepare for them.

Construction Lawyer Melbourne has been in active practice of Construction Law for more than ten years now, and we can help you thoroughly prepare for your hearings and help you vindicate your rights.

Should you have any questions, feel free to give us a call. First consult is absolutely free.

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