

## NCAT REVIEW

My comments are the result of an application and appeal by a colleague and myself to NCAT in January and October 2016. The application was a retirement village financial issue involving large sums of residents' money. The appeal was based on insufficient weight given to the evidence, several sections and regulations of the Retirement Villages Act being ignored and a breach of a CTTT ruling of 2012. You will recognise that I was and still am very critical of the NCAT process and consider it has little understanding of the Retirement Villages Act and general management.

1. We had been involved in a successful application to CTTT with assistance from the RVRA. I have been a long-time member of this organisation. However, residents in their 80s do not find it easy to cope with conflict nor how to cope with it.
2. NCAT is accessible for Sydney residents but it would be difficult for country and regional residents with issues. If NCAT were not the right avenue, surely the NCAT staff would advise the applicant. Having lodged the application, it was over 3 months before the first hearing and the dismissal orders were received two days later by ordinary mail. This seemed rather short as the issues were described as "complex". There was about a three month wait between lodging the appeal and the hearing but it was nearly 4 months between the appeal hearing and receiving the dismissal orders. This puts considerable stress on an elderly person who has other life issues to deal with as well.
3. The structure is very set and sterile. The fact that the members are elevated at one end of the room and the applicant at quite a distance is off putting. The applicant cannot see if the member has the appropriate file and if he is looking at what is being referred to when giving evidence. Neither can the applicant see what the members are looking at on their screens. This does not give any confidence to the applicant. The CD of the hearing was very poor quality.
4. As our matters involved finance it would have been helpful to have a round table conference with members familiar with the unusual financial management of retirement villages and the RVA.
5. In our CTTT mediation the issues took a whole day with only a short break for lunch and all documents on the table. The issues were decided in the residents' favour at the end of the day. With the NCAT application there seemed to be a 2 hours limit to a hearing and it felt rushed. With

the appeal there were two hours hearing on each of two consecutive days. This makes for a dis-jointed presentation. On both days, members appeared to be rushing to get it finished. This is not at all helpful to either party or the Tribunal. It does not give either party very much confidence especially when the matter is financial and complex.

6. The cost to lodge an application is minimal. It is costly if costs are awarded against the applicant, which occurred in my situation. It is especially distressing when I can point out so many flaws and so much evidence ignored by NCAT.
7. I would not be in favour of NCAT making any decision just on the documentation. NCAT does not seem familiar with the RVA and in my opinion confuses it with the Landlord and Tenancy Act. The applicant definitely needs to be in attendance and direct the members to the specific evidence and associated sections and regulations.
8. NCAT needs powers to enforce its decisions otherwise everyone has wasted their time.
9. I was not aware of any services and processes to support parties who represent themselves. I have not found Seniors' Rights Service and Law Access to be helpful in retirement village. I consider they are under-resourced and under-staffed.
10. Are Tribunal members expected to cover a range of legislation which is too wide? Would it be helpful to have members specialise in a few areas rather than try to cover so many varied areas? It would mean they would be more familiar with the legislation needed?
11. It would be helpful to have less time restraints.
12. Applicants need to know that the members have actually looked at the evidence and understood the context with the RVA and not make their own assumptions, opinions and interpretations.

Lorraine Beattie 17 June, 2019.

SHORT NCAT REVIEW OF APPEAL ORDERS. AP 16/32979 16 Jan. 2017.

1.....I cannot believe that the Tribunal actually read and understood the evidence lodged.

2.....I cannot believe the Tribunal referred the evidence to the related sections and regulations of the RVA.

3.....Several crucial parts of the evidence were not even referred to in the orders.

4.....The orders include "in my opinion", embellishment of sections, modification of sections and similar qualifications of the RVA instead of the actual statements in the Act.

5.....NCAT was asked to review the orders but refused despite Reg.41/37. Two politicians, the Minister for Better Innovation, the Attorney General and the Office of Fair Trading have all been contacted. All advised they had no authority to interfere. It appears NCAT is not accountable to anyone. To appeal to the Supreme Court is not an option financially nor can any retirement village resident have confidence in the justice system when NCAT issues orders such as it has in this case.

6....The Office of Fair Trading advised they had not identified any breach of the RVA by the operator. What did they ask, who did they speak to and what did they look at? OFT did not contact my colleague or myself to look at our evidence or find out why we were so dissatisfied with NCAT orders.

7.....I have a 6 page review and analysis of the orders if that would be helpful.

Lorraine Beattie.....19 June 2019.