



A Tenant's Guide to Rental Housing

SERI

socio-economic rights institute
of south africa

CUBES

CENTRE FOR URBANISM
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Introduction

South African law gives important rights and protections to tenants living in rented accommodation. In the past, only the common law (mostly case law passed down by judges) and the lease agreement was used to govern the relationship between landlords (sometimes referred to as lessors) and tenants (sometimes referred to as lessees).

Now, though, the right of access to adequate housing in section 26 of the Constitution controls the relationship between landlord and tenant. To put this right into practice, Parliament passed the Rental Housing Act 50 of 1999 to set out the law between landlords and tenants in detail. In Gauteng, the provincial government has also written regulations to define fair and lawful conduct between landlords and tenants. These are known as the Gauteng Unfair Practices Regulations. The Rental Housing Act and the Regulations are available in a separate booklet produced by SERI.

The Rental Housing Act sets out what should be contained in a lease agreement (sometimes referred to as a rental agreement or a lease). It also outlines the rights and responsibilities of both parties in a landlord-tenant relationship, and provides information on the cancellation or termination of a lease. The Act further says that landlords and tenants must act fairly towards each other. It defines unfair behaviour as an “unfair practice”. A landlord or tenant breaks the law if he or she commits an unfair practice.

The Rental Housing Act also provides for provinces to set up Rental Housing Tribunals. These Tribunals are meant to decide when a landlord or a tenant commits an unfair practice, and can make a ruling stopping unfair practices from continuing, and compensating people who have been unfairly treated. Not all provinces have Rental Housing Tribunals, but Gauteng does. In Gauteng, the Rental Housing Tribunal applies both the Rental Housing Act and the Gauteng Unfair Practices Regulations.

This guide is meant to help tenants. It is structured in 3 sections which cover the start, duration and end of the landlord-tenant relationship. In each of these sections there are a number of questions which tenants have often asked SERI or CUBES when they have come to us for support. The answers provided are meant to assist tenants to protect themselves against unfair and illegal conduct by landlords and to understand when the law says that a tenant is acting unfairly and illegally.

While this guide tries to be as helpful as possible, you should always seek advice from a Rental Housing Information Office, a Rental Housing Tribunal or a lawyer if you are unsure of how the law applies to you.

The law set out in this guide is accurate as at 30 September 2013.

1 Starting the landlord-tenant relationship

1.1. What are the obligations of landlords?

Landlords have the following obligations:

- They must make sure that the property is in a reasonable condition when you move in.
- They must provide a written lease agreement if you ask for one.
- They must issue a receipt for every payment you make.
- They must respect your right to privacy. You are entitled to enjoy your home undisturbed. Your landlord can, when reasonable, after telling you in advance and with your permission, come to inspect the property. Your landlord cannot enter your home unannounced whenever he or she feels like it.

1.2. What are your obligations as a tenant?

Tenants have the following obligations:

- You must pay the rent and services on time, unless you have a valid legal reason not to. Valid legal reasons not to pay your rent will be discussed later in this guide.
- You must use rental property only for the purposes agreed in the lease agreement. If you agree that the property will only be used as your home, you cannot generally start running a business from it.
- You must not rent the property out to others without agreement from the landlord.
- You must maintain the interior of the property.
- You must not make any changes to the property such as knocking down walls, painting or renovating without agreement from your landlord.

1.3. What is a lease agreement?

A lease agreement (or lease) is a contract between a tenant and landlord setting out what has been agreed to around a range of issues important to the landlord-tenant relationship. These could include, for example, the rent amount, rent increases, notice periods for the cancellation of the lease or who is responsible for repairs on the property.

If you are given a written lease, you should read it carefully before you sign it. The law protects you against parts of a lease that are unfair or illegal. A Rental Housing Tribunal can set aside unfair or illegal parts of a lease. Other than that, though, you are legally obliged to carry out the terms of the lease you signed, even if you did not read it.

1.4. Do I need a written lease?

You do not need a written lease. An oral lease agreement – where the rent and the rented property are identified in a spoken agreement between you and the landlord – is still legally binding.

Leases can also be agreed by unspoken behaviour. For example, if you pay your landlord money on a regular basis and your landlord accepts that money on the shared understanding that the money is being paid in return for you being allowed to live in the rented property, then you have a lease. No words need be spoken or written down for there to be a legal agreement.

Section 5(2) of the Rental Housing Act says that a landlord must provide a written lease if you ask for one. It is normally useful for a lease to be put in writing. Without a written lease signed by both parties, it is often difficult to prove that something was agreed, for example in court or in the Rental Housing Tribunal. It becomes your word against your landlord's. A written, signed lease agreement can be a very powerful tool for a tenant.

1.5. What must my lease say?

At the very minimum, a lease must -

- identify the parties to the agreement – your name and the landlord's name;
- describe the rented property – the address of the property; and
- set the rent amount payable.

Usually, a lease will contain many more things than this, but only the parties, the rent and a description of the property need to be agreed on for you to have a valid lease.

1.6. What else should be in my lease?

A lease should normally include agreements between you and the landlord on a number of important things, including:

- your name and address, and the landlord's name and address;
- the description of the property and the part of the property you will live in and be able to use;
- the rental amount and the amount by which the rent can be increased each year;
- any other charges;
- frequency of rental payments, if not monthly;
- any deposit you have to pay;
- the lease period, or notice period requested for termination of the lease. It should be clearly stated how much notice must be given and when;
- the other obligations you and the landlord will have (these must be consistent with the Rental Housing Act and any Unfair Practices Regulations);
- a list of defects in the property, which should be attached to the lease; and
- in shared buildings, a list of house rules, if any (these should be attached to the lease).

1.7. Are there any rights or obligations that a lease cannot take away from me?

Section 5(3) of the Rental Housing Act sets out some standard rules between landlords and tenants. These rules include the following:

- The landlord must give you a written receipt for all payments made and received.
- The landlord may require you to pay a deposit before moving in, but this cannot be more than the amount agreed to in the lease.
- Before you move in, you and the landlord must inspect the property together. This is to list any damage, to decide what the landlord must fix and to record any damage that happened *before* you moved in. This is important when it comes to claiming back a deposit.
- During the period of 3 days before the lease expires, you and the landlord must inspect the property together at a convenient time for both of you. This is to assess if there is any damage caused during the time you were living at the property.

These rules are part of your lease whether or not you agree to them with your landlord.

Sometimes a landlord might ask you to sign a lease in which you promise not to enforce these rules, or not to enforce some of your other legal rights. You should think very carefully before signing a lease like this. Even if you do sign the lease, though, you can still rely on your rights in the Rental Housing Act and in the Unfair Practices Regulations, if any apply in your province.

1.8. Where can I get a copy of a lease?

You can buy examples of leases from some stationery shops (e.g. CNA). These are called “standard form” leases. These are very often meant to be sold to landlords, and are often written from a landlord’s point of view. They may also be out of date, in that they do not take the Rental Housing Act into account.

You should check any written lease agreement a landlord gives you against the requirements of the Rental Housing Act and any Unfair Practices Regulations.

1.9. How long does a lease last?

A lease can last for any period of time. However it is not possible to have a lease “forever”, or to have a vague agreement that a tenant can stay “as long as she wants”, or “as long as the landlord wants”. The lease must either set out the length of time it will last for, or say what future event will bring it to an end, even if you and the landlord do not know exactly when this will happen. If the lease agreement does not state a definite period of time for which it will run, then the lease is effectively a month to month (periodic) lease. This means that every month the lease comes to an end, and a new one starts at the beginning of the following month.

There are different ways that a lease can come to an end or be renewed, depending on what kind of lease you have and what is stated in the lease about cancellation and the notice period required for termination. This is discussed later in section 3 of this guide.

1.10. What is a deposit?

A deposit (sometimes referred to as a security deposit) is an amount of money paid to the landlord to cover possible damage to the rental property or non-payment of rent. If none of these occur, the deposit should be refunded in full plus interest after the lease ends.

1.11. Must I always pay a deposit?

Most landlords will require you to pay a deposit. The law permits them to ask for one.

1.12. How much is reasonable for a deposit?

A reasonable deposit is generally considered to be about 1 or 2 months' rent. The deposit must normally be paid when the lease is signed and before you move in.

1.13. What if there are things that need to be fixed before I move in?

Before moving in, you and the landlord must together inspect the property and list any damage. This is done for two reasons. The first is so that agreement can be reached on what the landlord must fix before you move in. The second is to record any damage to the property. This is very important when it comes to getting back the deposit after the lease ends. It can prevent a situation where the landlord claims you caused damage to the property, when that damage was actually there before you moved in.

You and the landlord should sign a list of all damages and attach it to the lease. If, during the inspection, the landlord promises to fix something, this should be put into writing or, ideally, included in the lease.

2

Navigating the landlord-tenant relationship

2.1. Who pays for municipal services?

There is no rule about who pays for which municipal services (water, electricity, sewerage, refuse). This means that there must be agreement between you and the landlord about who pays for which municipal service and how to go about this.

Most often the municipal account or bill remains in the name of the landlord. The landlord bills you for the services used. You then pay the landlord, who then pays the municipality or service provider (for example, Eskom or City Power). However, you have the right to see the municipal account to ensure that you are being correctly billed. If you have your own water or electricity meter, you can only be billed for the services you use. If you share a meter with another tenant, or the landlord, you can only be billed for a fair proportion of the services consumed through that meter. This is normally the total amount consumed by a meter divided by the number of households sharing it.

2.2. What should be in my monthly services statement?

If your home is separately metered for services and you pay your landlord for the services, the landlord must provide you with a monthly statement containing the following information:

- your name and the landlord's name;
- the physical address of property;
- the name, address and telephone number of each service provider;
- the previous and current month's meter readings;
- the actual consumption for each service and amounts charged per unit of consumption;
- the total payment due;
- the date of the next meter reading for each service; and
- the amount of any arrears.



The landlord must charge you the exact amount for services consumed at the property if it is separately metered (see Regulation 13(1)(d) of the Gauteng Unfair Practices Regulations).

2.3. Can I buy water, electricity or other services directly from a municipality or other service provider?

This depends on the policy of your particular service provider or municipality. You will normally need the consent of your landlord to contract directly with the service provider. The Rental Housing Act and Gauteng Unfair Practices Regulations assume that you will receive your services through your landlord. They are designed to protect you in that situation.

2.4. What if my water or electricity gets cut off?

Your landlord may not cut off your water or electricity without a court order in terms of section 16(hA) of the Rental Housing Act and Regulation 13(1) of the Gauteng Unfair Practices Regulations.

A municipality or a service provider, such as City Power or Johannesburg Water, may not disconnect your water or electricity supply without first giving you notice of its intention to do so, and considering any representations (for example, communications, emails, letters, meetings etc) you might want to make about the proposed action. A water supplier must take into account your ability to pay for water services before disconnecting your supply, as outlined in section 4(3) of the Water Services Act.

2.5. How do I tell if my landlord's behaviour is unfair or illegal?

Sometimes a landlord might do something (for example, cut off your water, conduct extensive renovations or intimidate you), or fail to do something (for example, maintain the property properly) that affects your use and enjoyment of the property. These are considered unfair practices. In Gauteng, an unfair practice is any infringement of the Gauteng Unfair Practices Regulations.

Some examples of unfair practices in the Gauteng Unfair Practices Regulations:

- unfair discrimination against a prospective tenant when negotiating a lease, or a tenant during the term of a lease, on one or more of the following grounds: race, religion, gender, sex, pregnancy, marital status, sexual orientation, ethnic or social origin, colour, age, disability, conscience, belief, culture, language and birth;
- intimidating, discriminating or retaliating against a tenant for exercising their rights;
- stopping a tenant from establishing or being a member of a tenants' committee;
- searching the property or seizing possessions without a court order.



A full list of unfair practices prescribed in Gauteng is provided in the guide to the Rental Housing Act and Unfair Practices Regulations published with this booklet.

2.6. What can I do if my landlord acts unfairly or illegally towards me?

You can try discussing the matter with your landlord, write a formal letter of complaint, or both. This should set out exactly what the complaint is about, whether it constitutes an unfair practice in terms of the Gauteng Unfair Practices Regulations, and the amount of time you will give the landlord to fix the problem.

If the problem continues, you can approach the Gauteng Rental Housing Tribunal and request mediation or arbitration (which is free) or contact a lawyer.

2.7. What is a Rental Housing Tribunal?

In 1999 the Rental Housing Act introduced provincial dispute resolution bodies called Rental Housing Tribunals. The Gauteng Rental Housing Tribunal is located at the provincial department of local government and housing. The Tribunal:

- resolves complaints through processes such as mediation and arbitration;
- offers advice on issues related to residential leases and rentals; and
- provides consumer education on the rights and duties of those involved in the rental sector.

The Tribunal investigates complaints made to it to find out if the complaints are about unfair practices in terms of the Gauteng Unfair Practices Regulations. It establishes whether the dispute can be resolved through mediation, or if a formal hearing should be conducted. The Tribunal has the power to summon a landlord or tenant to a hearing. A ruling by the Tribunal has the force of a Magistrate's Court order.

Mediation

Mediation is a form of alternative dispute resolution (ADR) in which a neutral person helps people in conflict to reach agreement or negotiate a settlement out of court. A mediator facilitates this process. Agreements are reached voluntarily.

Arbitration

Arbitration is a form of ADR where parties to a dispute refer it to one or more persons to review the evidence and impose a decision that is legally binding and enforceable.

There is more information about Rental Housing Tribunals provided in the guide to the Rental Housing Act and Unfair Practices Regulations published with this booklet. The contact details of the Gauteng Rental Housing Tribunal are printed at the end of this guide.

2.8. What happens if my landlord tries to evict me when I complain to the Rental Housing Tribunal?

If you lodge a complaint with the Rental Housing Tribunal about an unfair practice, your landlord is not allowed to evict you (even if they have obtained an order) until the complaint has been ruled on, or until 3 months have passed, whichever comes first.

If it takes longer than 3 months to rule on the complaint, and the landlord applies for your eviction, you are entitled to go to court and tell the judge that there is a complaint against the landlord pending with the Rental Housing Tribunal. The judge can then decide to suspend the eviction application until the Tribunal has made its ruling.

2.9. When can I withhold my rent?

If your landlord is refusing to perform maintenance on the property or does something that constitutes an unfair practice, you should follow the

steps described above in section 2.6 of this guide. If there is no response, and you are not being allowed to enjoy the full benefits of living in the property in terms of the lease, you can reduce your rent in proportion to the extent to which you have been denied the use of the property. This is called a *remission of rent*. Remitting your rent is, however, a drastic step. The loss of benefits must be substantial and serious in nature to justify doing so. For example, there may be a burst pipe, a hole in the roof, or a sewerage leak which makes half of the property unlivable. In that event, you are generally entitled to reduce your rent by 50%.

2.10. When can family or friends come and stay with me?

This depends on the rules of the property. Some places do not allow anyone to stay over at all, but this is an unfair practice, which you can challenge.

Other places say that you must ask for permission from the landlord, or place time limits on how long a visitor can stay. For a short time (for example, a week), it should not be a problem. For a longer period, it might be a problem.

You must not allow more than the maximum number of people specified in the lease to reside on the property permanently.

2.11. When can I get tenants of my own on the property?

Normally a lease agreement will state the maximum amount of people who can live at the property, and will state that the property cannot be sublet. A tenant may not sublet the property, or any part of it, without the written consent of the landlord. This is the case even if the lease does not say anything about not subletting the property. A landlord should not unreasonably withhold consent to the tenant to sublet the property.

2.12. What happens if I cannot pay rent on time?

Section 9(1)(5)(a) of Gauteng Unfair Practices Regulations states that if you do not pay your rent within 7 days of the due date, you have technically broken the terms of the lease and the landlord can cancel the lease immediately. The landlord is entitled to go to court or the Rental Housing Tribunal to ask for permission to sell your possessions on the leased property in order to recover the unpaid rent. It is best to speak with your landlord as soon as possible if you are having financial difficulties and cannot pay your rent or services.

In terms of section 3(3)(a) of the Gauteng Unfair Practices Regulations, a landlord may not impose a penalty for late payment of rent, but can charge interest on the amounts outstanding.

Failure to pay rent without a valid legal reason may result in the cancellation of your lease.

2.13. Can my landlord increase my rent during the lease period?

Yes, if the lease includes the rate of increase of rent per year (10% per year is a common increase). The landlord must give you at least 2 months written notice of an intention to increase the rent (see Regulation 6(4) of the Gauteng Unfair Practices Regulations).

2.14. Can I challenge unfair rent and service charge increases?

Yes. If you think that any service charge or rent increase is unfair, you can ask the Rental Housing Tribunal to reverse it. You do not have to pay the increase while you are challenging it, but if your complaint fails, then you might have to make up the payments you have missed while your complaint was being considered by the Tribunal.

Your landlord must provide you with copies of municipal or service provider accounts if you ask for them, in terms of Regulation 13(1)(g) of the Gauteng Unfair Practices Regulations.

2.15. What if my landlord sells the property during my lease?

If the place you are renting is sold by the owner (and your lease is for less than 10 years) then you cannot be evicted automatically. The new owner must honour the existing lease agreement. The new owner takes over the existing lease. They cannot interfere with your use of the property until your lease has expired or is terminated and you move out. This is called the *huur gaat voor koop* rule, which means, roughly, that "a lease is stronger than a sale".

2.16. What repairs am I responsible for during the lease period?

You are generally responsible for maintaining the inside of the property e.g. replacing globes and fittings on locks, handles and windows etc. Your landlord is generally responsible for maintaining the outside of the property e.g. ensuring that plumbing, electrical systems and any lifts are in working order.

A landlord must also repair any damage caused by "fair wear and tear", which refers to any damage or loss to an item at the property which happens as a result of natural causes or ordinary use over time. This could include peeling paint, faded carpets, minor marks on walls etc. Removing mould or mildew in bathrooms is generally your responsibility, except when it is caused by leaking pipes or cracks in walls (then it is your landlord's responsibility to fix).

Your landlord might try to charge you for repairs to the property when you leave and deduct the costs from your deposit (see section 3.12 of this guide below). You should make sure that these deductions are fair.

3

Ending the landlord-tenant relationship

There are 2 ways of bringing a lease agreement to an end: cancellation or termination. They might sound the same, but they are actually 2 different processes.

3.1. When can my lease be cancelled?

A lease agreement can be *cancelled* if you or the landlord have breached (broken) an important part of the agreement (for example, if the landlord does not perform essential maintenance or you do not pay the rent). The lease will normally contain a cancellation clause, which will tell you –

- How long you or the landlord have to reverse the breach (violation) after they have been given notice of it; and
- when the agreement will come to an end if the breach is not reversed within the given period.

If the period given to reverse the breach, or the period after which time the lease comes to an end if the breach is not reversed is *not* specified in the lease, then these notice periods must be reasonable.

“Reasonable” in the context of notice periods for cancellation depends on the nature of the breach, how seriously it affects you or the landlord and the amount of time it would actually take to fix the breach (for example, if something breaks in the property and it will take a week for someone to repair it). In Gauteng, if you do not pay rent after 7 days of the due date, then the lease can be cancelled immediately after this period is up.

It is possible that the lease says that some breaches are so serious that you or the landlord can cancel the lease without giving the other party any notice to reverse the breach. Check what your lease says about this.

3.2. When can my lease be terminated?

A lease agreement can also be *terminated*. Most often, a lease terminates when the lease period agreed in advance comes to an end. Normally this is a date set out in a fixed-term lease. A lease can also be terminated when one of the parties gives “reasonable” notice that they want the agreement to come to an end. Reasonable notice is usually the notice agreed to in the lease, but if no period has been agreed, a good general rule is that a reasonable notice period is at least 1 month, or 1 month for every year that the lease has been running, whichever is the longer.

If you want to terminate your lease and move out before the lease is due to expire, then you may be asked to reimburse the landlord for finding a new tenant or for the amount of rent due between the period you wish to terminate the lease and the actual date of expiry set out in the lease. Whether or not you will be liable, and how much you will be liable for, depends on the facts of the case and what the lease says. You should make sure there is a termination clause in your lease that is favourable to you and your circumstances.

3.3. When can I challenge an unfair cancellation or termination of my lease?

Section 4(5)(c) of the Rental Housing Act says that a landlord cannot bring a lease to an end if to do so would amount to an “unfair practice”, or would be unreasonable, unjust or inequitable. If you feel that your landlord has ended your lease in this way, then you can make a complaint to the Rental Housing Tribunal. For example, in the *Maphango* judgment, the Constitutional Court found that it could constitute an unfair practice for a landlord to terminate a lease in order to get around a clause that prohibited the increase of rental by a very high amount, even though

the termination may be permitted by the lease and the common law. The Rental Housing Tribunal decides when the termination of a lease is unfair.

The Tribunal also has the power to set aside (reverse) the termination of your lease if it was unfair. However, throughout this process, you must continue to pay your rent and do everything else that is required in terms of the lease.

3.4. What if my lease ends but I decide to stay in the property?

If your lease ends but you remain in the property with the “express or tacit consent” of the landlord (meaning that the landlord agrees to this, either by stating it or by acknowledging it by not trying to evict the tenant and continuing to receive rent), then the law says that a new periodic lease (for example, a month to month lease) is entered into, with the same terms and conditions as the expired lease. One month’s written notice must be given of the intention of either you or the landlord to terminate this periodic lease.

If your lease ends and your landlord gives you notice to vacate the property, and you do not leave by this date, you may become an “unlawful occupier” and the landlord could take you to court and apply for an eviction order against you.

3.5. What if my landlord forcibly removes me from the property without getting a court order?

This is unlawful. An illegal eviction is any action taken to remove someone from a property without following the proper process. For an eviction to be legal, a court needs to grant an eviction order after considering all the facts of the case.

The landlord need not physically remove you from the property to evict you illegally. You are also evicted illegally if your landlord –

- changes the locks while you are out.
- intimidates or threatens you to move out the property.
- disconnects services at the property without a court order.

According to section 16 of the Rental Housing Act, if the landlord does any of the above, he or she could be found guilty of an offence and made to pay a fine. If your landlord tries any of this, you should tell him or her that it is illegal in terms of the Rental Housing Act. You can also go to court to reverse your eviction and get back into the property.

3.6. How does the landlord get a court order?

An eviction can only take place with a court order. A court order can be obtained by the landlord if they have cancelled or terminated the lease (after giving proper notice) and the tenant remains in the property. The process works as follows:

- The landlord launches an eviction application in the High Court in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (PIE Act). A summons (a legal demand for someone to be in court at a specific time and day so that they can respond to a case) or a notice of motion is served on you (the tenant).
- You are entitled to effective notice of the court hearing, including the date and time of the hearing, and your entitlement to apply for legal aid. If an eviction order is granted against you without your knowledge, you can apply to set it aside. You will normally need a lawyer to help you do this.
- A hearing will take place where you and the landlord will explain the situation to the court, normally through lawyers.
- The court may then issue an eviction order. If they do, the landlord must supplement the eviction order with a warrant of eviction, stamped by the court.

- The court normally gives 2 dates: the first date is the date when you must vacate the property. The second date is the date the sheriff can forcibly remove you should you fail to leave by the first date.

If you are poor and will face being made homeless if you are evicted from the property, this defence should be raised in court and the judge can order the municipality to provide alternative accommodation.



3.7. What happens if I permanently leave the property before my lease comes to an end?

If you permanently vacate (leave) the property before the lease expires and stop paying rent (without giving the landlord notice), then your lease effectively expires on the date on which you permanently vacated the property. The landlord can claim damages from you for breaking the terms of the lease.

3.8. Can I get someone else to take over the property if I want to move out early?

Not unless you are subletting the property with the agreement of the landlord. If you want to move out and let someone else take over the flat, you must tell the landlord so that he or she can enter into their own lease agreement with the new tenant.

3.9. What should happen when the lease ends and I want to move out?

Three days before the lease expires, you and the landlord must together inspect the property (at a time convenient to both of you) to assess if there is any damage caused during the lease period. If there is no

damage, the deposit must be refunded in full within 7 days of the end of the lease.

3.10. What if my landlord fails to inspect the property?

If the landlord refuses or fails to inspect the property when they should, it means that they have accepted that the property is in a “good and proper state of repair” and they cannot make any claims against you. Your deposit must be refunded in full within 7 days of the end of the lease.

3.11. What if my landlord and I cannot inspect the property at the same time?

The landlord must ask you to inspect the property with him or her. If you cannot or do not do this, the landlord must inspect the dwelling within 7 days of the expiration of the lease, and can deduct from your deposit the reasonable cost of fixing any damage caused. The balance of the deposit, if any, must then be refunded to you no later than 21 days after the lease expired. The landlord must allow you to inspect the relevant receipts, as proof of their repair expenses.

3.12. What happens if there has been damage to the property during my lease period?

If during the inspection it is found that there is damage that you must pay for, then the landlord may use your deposit towards the reasonable cost of repairing the damage, but the landlord must allow you to inspect the receipts as proof of any costs incurred. The balance (remainder) of the deposit, if any, must be refunded to you by the landlord no later than 14 days after the property has been handed back to the landlord.

3.13. What happens if there is no damage to the property?

If there is no damage to the property then no money is due to the landlord in terms of the lease, and the full deposit (with interest) must be refunded by the landlord within 7 days of the end of the lease.

3.14. What can I do if my landlord refuses to give back my deposit?

If the landlord claims deductions on your deposit for repairs to the property, you can request to inspect all invoices related to this. If the landlord refuses to show you the invoices or if they do not make sense, you can go to the Rental Housing Tribunal or approach the Small Claims Court, which deals with matters below R12 000. You must represent yourself in the Small Claims Court and cannot be assisted by a lawyer (an attorney or advocate).

Useful organisations and online resources

Organisations

Gauteng Rental Housing Tribunal

If you need the help of the Gauteng Rental Housing Tribunal, you will need to lodge a complaint in writing. The Tribunal is located at:

Ten Sixty Six Building
14th Floor, 35 Pritchard Street
(Corner Harrison Street)
Johannesburg
Tel: (011) 630 5035

Centre for Applied Legal Studies (CALS)

The Centre for Applied Legal Studies (CALS) is a public interest law organisation based at the University of the Witwatersrand.

CALS' website is at <http://www.wits.ac.za/academic/clm/law/cals/16858/home.html> and its office is located at:

DJ du Plessis Building
West Campus
University of the Witwatersrand
Braamfontein
Tel: (011) 717 8600

Legal Aid South Africa

Legal Aid SA provides free legal advice and assistance to those who qualify, and is mandated by the South African Constitution. The organisation provides legal advice (over the phone or at their office) and will assist with legal representation in eviction and other housing-related cases.

To qualify you will need to complete a means test, which involves filling out a form detailing how much you earn per month. If you are employed, you must earn less than R5 500 per month (after tax). If you live in a household with other people, the total household income should not be more than R6 000 per month (after tax). If you are unemployed, you will require an affidavit from the police stating this. People living on state grants and the elderly automatically qualify for legal aid.

The Legal Aid Advice Line toll free number is 0800 110 110. The organisation's website is at <http://www.legal-aid.co.za> and the Johannesburg Justice Centre office is located at:

41 Fox Street
Edura House
Johannesburg
Tel: (011) 870 1480

There are a number of other Legal Aid Justice Centres located around Gauteng.

Legal Resources Centre (LRC)

The Legal Resources Centre (LRC) is a human rights organisation with offices around the country. The LRC's website is at www.lrc.org.za and its Johannesburg office is located at:

15th and 16th Floor
Bram Fischer Towers
20 Albert Street
Marshalltown
Johannesburg
Tel: (011) 836 9831

The LRC assesses matters on a case-by-case basis, and will provide assistance in rental housing cases that are in the public interest.

ProBono.Org

ProBono.Org is a legal NGO that works with the private legal profession to provide pro bono legal services to the poor. ProBono.Org runs a Housing Legal Clinic on Fridays from 09:00 to 13:00 where attorneys are available to provide:

- assistance and representation in respect of complex Rental Housing Tribunal hearings; and
- facilitate mediation between the tenants and landlords and/or estate agents or managing agent.

ProBono.Org's website is at <http://www.probono.org.za> and its office is located at:

1st Floor West Wing
Constitution Hill
1 Kotze Street
Braamfontein
Tel: (011) 339 6080

Socio-Economic Rights Institute of South Africa (SERI)

SERI is a public interest law organisation providing socio-economic rights assistance to individuals, communities and social movements. SERI provides legal advice and litigation assistance to poor and marginalised persons facing evictions, and in rental housing cases that are in the public interest.

SERI conducts consultations with potential new clients on weekdays from 09:00 to 13:00.

SERI's website is <http://www.seri-sa.org> and its office is located at:

6th floor Aspern House
54 De Korte Street
Braamfontein
Tel: (011) 356 5860

Online resources

- Rental Housing Act 50 of 1999
<http://www.acts.co.za/rental-housing-act-1999/>
- *Tenant and Landlord in South Africa* by Dr Sayed Iqbal Mohamed (2nd edition, 2010)
<http://www.legal-aid.co.za/wp-content/uploads/2012/05/Tenant-Landlord-in-South-Africa-2nd-Edition.pdf>
- Advice on Renting, *Property24*
<http://www.property24.com/articles/advice/renting>
- Frequently Asked Questions for Tenants (Western Cape Rental Housing Tribunal)
http://www.westerncape.gov.za/eng/pubs/public_info/F/116621

This guide is meant to help tenants. It is structured in three sections which cover the start, duration and end of the landlord-tenant relationship. In each of these sections there are a number of questions which tenants have often asked SERI or CUBES when they have come to us for support. The answers provided are meant to assist tenants to protect themselves against unfair and illegal conduct by landlords and to understand when the law says that a tenant is acting unfairly and illegally.

SERI

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CUBES

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