



ARTEMIS PROPERTY MANAGEMENT

**SALES - RENTALS - RENTAL ASSET &
PROPERTY PORTFOLIO MANAGEMENT - CONSULTING - MAINTENANCE**

RESIDENTIAL & COMMERCIAL PROPERTY - MANAGERS & BROKERS

**- SUCCESSFUL RENTING -
“THE LANDLORD’S HANDY
GUIDELINE MANUAL”**

PREPARED & PRESENTED BY

ARTEMIS PROPERTY MANAGEMENT (PTY) LTD

SUCCESSFUL RENTING

THE LANDLORD'S HANDY GUIDELINE MANUAL



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Disclaimer: Although this document has been prepared with thorough care and as accurately as possible Artemis Property Management (Pty) Ltd and its directors/ staff/ associates/ subsidiaries cannot be held liable for any errors or omissions contained herein and this guideline, is exactly that only, it is a guideline, and it does not replace any legal counsel and advice that will be preferable from appropriate sources, such as the Rental Housing Tribunal, the Rental Housing Information Office, or an attorney, if and when landlords or tenants are uncertain about what laws are applicable.

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INTRODUCTION

Artemis Property Management agents are highly experienced and efficient in the renting and leasing residential market and we are well able to help find the most suitable homes in the neighbourhoods of preference, with neighbours that will also contribute to living experiences that will be very worthwhile.

It is essential that Landlords find the most suitable tenants for their rental properties. It is about good Tenants making good neighbours and to do this, Landlords will need to have all the required information and resources that are available to make the renting experiences very pleasant for the Tenants and the neighbourhood.

Landlords will need to read through this document thoroughly to ensure that landlords grasp the roles, responsibilities and the rights that apply to all landlords.

PLEASE NOTE: This document only sets out guidelines for Landlords, it does not replace any legal counsel and advice, it is always preferable to seek correct advice, legal or otherwise, from sources such as the Rental Housing Information Office, the Rental Tribunal or an attorney, if there are uncertainties about how the law applies to landlords.

LANDLORDS NEED TO SELECT THE MOST SUITABLE TENANTS

Appointing a rental agent will make the landlords tasks to find the most suitable tenants, so much easier and very efficient. However, if the landlords still prefer to undertake this task themselves, here are some helpful pointers that landlords can undertake to select the most suitable tenants :-

1. Firstly, the landlords must decide what will be included in the Agreement of Rentals/Leases, such as, are the tenants smokers will this be a problem, whether or not pets are allowed. There are many complexes and apartment buildings that are not pet friendly and no pets are allowed on the properties, with no exceptions! This is very important for the landlords to make very clear to any potential tenants, when the landlords advertise their rental properties and also before the appointments with potential tenants to view the rental properties are made.
2. When landlords advertise their rentals, it must clearly state that tenants will be financial and reference checked and this will impact upon potential tenants who want to view the properties by reducing the number of tenants who will qualify for the rentals and saving landlords a lot of time, while ensuring that the most suitable tenants will lease the properties.
3. Potential tenants can be further be reduced by the landlords, who need to request that potential tenants will need to complete a detailed application form for information such as their employment details with contactable references, including supporting documentation, such as a copy of identity documents, salary slips to confirm their employment and their monthly income, so as to ascertain the tenants financial affordability. The application form should also include the tenants previous rental history with contactable references and the reasons why they have decided to move.
4. When the landlords receive the completed application forms with the requested supporting documentation, landlords will then be able to undertake credit and criminal record checks on the tenants who have applied to lease the properties and the applications to lease can be confirmed by the landlords contacting the references on the application forms.

5. When the most suitable tenants are selected, the landlords must draw-up a highly comprehensive and legal Agreement of Rentals/Leases that also includes, but is not limited to the following :-
- The pre-occupation inspection report, the details of the deposit, the rental amount, the date that the rental amount must be paid by
 - The breakages costs payable by the tenants and the required maintenance and upkeep.
 - The allocation of time frames to be added to the required clauses, including penalties that can be imposed on the tenants when any terms or conditions of the Agreement are breached by the tenants.
 - It is essential that the Agreement of Rentals/Leases stipulates everything that is required in the Agreement to avoid any misunderstandings or misinterpretations later on down the line
 - The Agreement must not be open-ended with regards to all of the responsibilities each of the parties will have as per the Agreement of Rentals/Leases.
 - The acceptable behaviour while leasing the rentals that is expected from the tenants also needs to be included in the Agreement.
 - In the case of complexes and apartment buildings, the rules as set out for all the occupants to follow by the managing bodies at complexes and apartment buildings, this is advisable to also be included in the Agreement and landlords must remember, if applicable, to include the “No pets allowed, with no exceptions” rule in the Agreement of Leases
 - Then the terms and conditions of the Agreement of Rentals/Leases must be agreed upon and signed by the tenants and the landlords.

WHAT ARE THE RESPONSIBILITIES OF LANDLORDS

All the parties involved in a rental agreement must know what their responsibilities are and then they need to commit to the agreement, so that the rental agreement will be successful.

Regarding rentals that the landlords have mandated a Rental Agency to act on their behalf, there may be references to the landlords that will imply the landlords and/or their appointed Rental Agency

These are the responsibilities of landlords :-

1. Before the new tenants move into the rentals, landlords must ensure that the properties and contents are in acceptable working order and condition.
2. The Rental Agency or the landlords must put **written** lease or rental agreements into place with the tenants.
3. The tenants who agree to and sign the Agreement of Rentals/Leases will not exonerate the landlords from any of their responsibilities that are always required for their rental properties.
4. It is the landlords responsibility to ensure that the maintenance of all electrical fixtures, plumbing, inclusive of the flushing mechanisms of all toilets on the properties, all the external walls, the roof and any other structural parts of the properties are all in good and acceptable working order and condition.

5. Landlords are responsible for maintaining swimming pool pumps, that is, if the rental properties have swimming pools. Landlords must also supply all pool cleaning equipment that the tenants will require.
6. Landlords will have to provide to tenants, on their requests and at the landlords costs, replacement remote access controls, when the rental properties are in a complex with security, unless of course if the loss or any damage to the remote controls were caused via the tenants.
7. Landlords or the Rental Agency may not enter rental properties without the tenants permission and at their convenience, after all the tenants do have the right to their privacy and the right to have uninterrupted home lives. However, it is always advisable and in the landlords best interests to undertake regular inspections of their rental properties, so that the landlords can ascertain first hand for themselves, whether there are any issues or problems in the rentals, as well as any breaches that may have been made by the tenants.
8. With regards to rents received, accounts, services and so on, it is essential that the landlords or the Rental Agency always issue receipts to tenants for each payment received from the tenants.
9. Deposits received from tenants must be deposited into an interest bearing trust account and on termination of the leases, the landlord or the Rental Agency must pay the deposits plus interest back to the tenants, only after all the damages that the tenants have caused at the leased properties have been deducted from the deposits and in so doing, the damages have been paid for by the tenants.
10. Inspection of the rental properties by the landlords and/or the Rental Agency and the new tenants are always essential and lists of any damages that require repairs and/or new replacements to be made via the landlords, must be determined and records of the damages and replacements must be made before the new tenants move in, because this will be very important when the tenants claim their deposits back, after the termination of their leases.
11. All municipal charges, levies and services accounts must be paid in full by the new tenants before the tenants move into the rental properties and the landlords must ensure that this takes place before the tenants occupation of the rental properties.
12. The leased properties rates, taxes and/or levies must be paid on time by the tenants and it is in the landlords interests to ensure that the tenants honour these payments when they are due.
13. Landlords cannot under any circumstances cut off tenants electricity or water that they utilize at their rental properties, unless the landlords have a court order to do so. If the utility bills are not paid by the tenants, the landlords will then be responsible to pay the outstanding balances. It is in the landlords best interests to always be aware of what is going on at the rental properties and to ensure that the tenants are paying all the required accounts and that their payments are up-to-date. Pre-paid electricity and water meters are very good measures that landlords can take and if this is not an option, then it is always advisable for landlords to include deposits for these accounts agreed upon with the tenants and at the drawing-up of the Agreement of Rentals/Leases.

14. In the event of property damages due to fire, landlords must insure the leased properties to their full values against the risks of any fire damages.
15. By law, inspection of the rental properties must be undertaken and this must take place 3 days before the leases expire. This inspection is required by the landlords and/or the Rental Agency and the tenants, at times that are convenient to all parties, for the assessments of any damages caused during the occupation of the properties by the tenants.
16. If there are any damages present during the inspection of the properties, the damages must be repaired and/or new replacement installations provided via the tenants deposit and then the remainder of the tenants deposit must be repaid to the tenants within 14 days after the repairs and/or replacement installations at the properties have taken place and have been successfully completed. If there are no damages during the inspections, landlords or the Rental Agency must pay the tenants deposits plus interest back within 7 days.

17. **The Property Practitioners Act (“PPA”)** has come into effect on 1 February 2022. The PPA aims to ensure a healthy property market, to regulate property practitioners and to protect consumers. An important example of consumer protection is the compulsory inclusion of a property defects disclosure form for rental properties. Regulatory changes focus on matters such as trust accounts, certification, who qualifies as a property practitioner and the Property Practitioner Fidelity Fund.

A completed disclosure form (in a format prescribed by section 36 of the Property Practitioners Regulations, 2022) and signed by all the parties must now be attached to the agreement and forms an integral part of the agreement.

Under the PPA from 1 February 2022 property practitioners may not accept a mandate from a landlord where there is no comprehensive disclosure form. If they do accept the mandate, their actions may result in liability towards the affected consumer. If the disclosure form was not completed, signed, or attached to the agreement, the agreement must be interpreted as if no defects or deficiencies of the property were disclosed to the tenant. The disclosure form is not a substitute for any inspections or warranties, which means that the tenant(s) can still insist on these in the agreement.

18. In the case of semi-furnished or furnished rentals, landlords or the Rental Agency must provide the new tenants with inventory records of all the furniture and equipment in the rentals and if there are any missing, or damaged and not in good working order items, this must be recorded in the inventory records. The tenants must sign acknowledgment of the inventory records, immediately after the inspections have been undertaken and before the new tenants move into the rental properties.
19. In the case of semi-furnished or furnished rentals, the landlords must insure and keep the contents in and on the property insured at all times.

MAINTENANCE AND REPAIRS – THE LANDLORDS OBLIGATIONS

Landlords must repair any damages caused by acceptable wear and tear, this is inclusive of any damages or losses to items on the properties as a result of natural causes and/or ordinary usage over time, for instance the peeling of paint, marks on the walls, carpets that have faded and so on.

Landlords are responsible for the structural maintenance of the rental properties and landlords must ensure that the electrical applications, all the plumbing and if there are any lifts in the buildings, that everything is in good working order and condition.

THERE ARE TWO RENTAL SERVICES THAT ARTEMIS PROPERTY MANAGEMENT OFFERS :-

OBLIGATIONS OF UNMANAGED AGENCY RENTALS

When a rental is unmanaged, the landlords can expect the following :-

Artemis Property Management will provide the landlords with an Agreement for Agency Rentals detailing what landlords can expect from Artemis Property Management as the appointed Rental

Agency by the landlords, inclusive of the mandate and outlining all the terms and conditions of the Agreement, inclusive of Artemis's commission structure.

1. Artemis Property Management's recommendations on how to prepare properties for leasing
2. Comparative Market Analyses of the potential monthly rental income of the properties
3. For the procurement of the most suitable tenants, Artemis Property Management will undertake the following :-
 - Open or exclusive mandates for "To Let" listings for the properties
 - For marketing purposes, photos of the properties will be taken
 - The properties will be marketed via the Artemis Property Management Office, certain media, agency networks and tenant data bases
 - Via open houses, or potential individual tenants the property viewings will take place
 - Potential tenants applications will be facilitated by Artemis Property Management
 - Potential tenants will undergo financial qualifications and reference checks as well as other reference checks, when required
4. Presentations of tenants qualified applications to lease the properties will be made to the landlords, for their perusal and consideration
5. The Agreement of the Leases between the landlords and the tenants approved by the landlords will be negotiated and concluded
6. The deposit, the first month's rent and other amounts payable by the tenants as per the Agreement of the Leases will be collected

7. As per the Rental Housing Act (RHA) and the Estate Agency Affairs Board (EAAB), the deposits must be invested in interest bearing trust accounts with financial institutions
8. As per the Rental Housing Act, the Incoming inspection must be undertaken with the landlords, and/or Artemis Property Management and the tenants before the tenants move into the properties
9. In the case of semi-furnished or furnished rental properties, the landlords must provide the Inventory Lists that must be checked against the properties furniture and equipment that the tenants must sign off on, if everything is in order. If there are any missing, or damaged and not in good working order items, this will have to be recorded and then the tenants must sign off on the amended Inventory Lists
10. Artemis Property Management will provide fully signed copies of the Agreement of Leases to the landlords and the tenants and this will include copies of the Incoming inspection with the required photos, if applicable, to the landlords and the tenants

PLEASE NOTE : The landlords will now manage their properties themselves and all further communications will only take place directly between the landlords and the tenants

OBLIGATIONS OF MANAGED AGENCY RENTALS

Artemis Property Management appointed by the landlords to manage their lease agreements, will provide further ongoing services and in addition to all the points as described under the previous Unmanaged Rentals section. The further ongoing services will be :-

1. As per the Agreement of Leases, there will be ongoing payments from the tenants that will be collected, such as :-
 - The monthly rentals
 - The monthly services and/or other amounts payable by the tenants
2. On behalf of the landlords, Artemis Property Management will make payments to third parties, such as the municipalities, contractors and suppliers
3. Artemis Property Management will deduct from the tenants monthly rents, the Artemis monthly lease management fee, as initially agreed to when the Agreement of Leases commenced and the balance of the monthly rents will then be transferred to the landlords accounts by Artemis Property Management
4. As per the Rental Housing Act (RHA) and the Estate Agency Affairs Board (EAAB) :-
 - The landlords will receive regular statements
 - The tenants will receive regular statements
 - There will be records and the safe-keeping of the lease files with all relevant documentation, invoices, receipts and correspondence
5. Regular inspections of the properties when required, inclusive of regular inspection reports and photos

6. Undertaking of the repairs, new replacements and maintenance of the properties on behalf of the landlords and Artemis Property Management will be committed to :-
 - Two quotations will be obtained when required
 - Appointing the relevant contractor/s for the repairs, new replacement installations and maintenance to be undertaken

 - Negotiating with all parties involved for the most convenient time for the work to be carried out
 - Before and after photos that must be taken of the work to be carried out
 - Checking-up and signing off on the repairs and maintenance successfully carried out and informing the landlords to this effect

 - **PLEASE NOTE** : Artemis Property Management will accept the lowest of the quotations on behalf of the landlords, in the event of any emergency repairs and/or new replacement installations

7. The sending out of the applicable renewal or termination of leases to the tenants as per the Consumer Protection Act (CPA)

8. For the lease renewals, Artemis Property Management will :
 - Together with the landlords and the tenants, negotiate the terms of the renewal of the lease agreements
 - On behalf of the landlords, renew the Agreement of Leases
 - If applicable, collect the top-up deposit from the tenants
 - Provide fully signed copies of the renewed Agreement of Leases to the landlords and the tenants

9. For the leases being terminated, Artemis Property Management will :
 - On behalf of the landlords, terminate the Agreement of Leases
 - On behalf of the landlords, Artemis Property Management together with the tenants will do the Outgoing inspection
 - Repay the deposit in full plus interest within 7 days, if there are no damages during the tenants leases. If there are damages, then the remainder of the deposit will be repaid to the tenants within 14 days, only after all the repairs and new replacement installations required to rectify the damages on the properties, have been carried out and successfully completed.
 - Undertake the reconciliation of the municipal accounts and the repayment of the balance of the tenants services deposits

10. If and when applicable, will need to take cognisance of the damages and the repairs and/or new replacement installations that will be required on the properties to rectify the damages and record everything that will be for the account of the tenants and Artemis Property Management endeavours to :-

- Procure quotations from preferred contractors/suppliers
- Appoint a contractor/s for the repairs and/or new replacement installations
- Negotiate with all parties involved for a convenient time for the work to be undertaken
- Undertake before and after photos of the work to be carried out
- Check-up that the repairs and/or new replacement installations have been carried out successfully

11. If and when applicable, Artemis Property Management will assist landlords with the day-to-day management of the rental properties.

SHOULD LANDLORDS LEASE THEIR PROPERTIES TO STUDENTS

Leasing to students can be rewarding :-

- Students want easy access to the campuses, so they are generally not fussy to share common areas such as kitchens and entertainment areas.
- Students often only rent per room which will bring in higher rental returns for the landlords
- Dishwashers, washing machines and tumble dryers are all highly recommended
- Wi-Fi with very good streaming capacities are essential and mandatory
- Security is mandatory, with alarm systems and security gates
- Students are frequently less demanding of the rentals, but they require that the rent is affordable
- It is in the landlords interests to provide rentals for students, when the tertiary institutions cannot provide accommodation to all the students because of the high demand and student rentals generally don't create many vacancies

Unfortunately, there are risks involved when leasing to students :-

- There is a high probability of short notice lease terminations
- Damages due to student neglect of the rental properties, that can be avoided by the landlords with the proper safeguards that landlords can put into place
- Due to students neglect because they don't keep properties neat and tidy, more wear and tear will be the biggest risk factor for the student rentals
- It will be in the interests of the landlords to employ cleaners to regularly help maintain and clean-up the rental properties
- Another option landlords have is to appoint house managers to regularly oversee the rental properties on the landlords behalf, and to report on and/or assist the students when they have issues or problems to do with the rentals
- Parents normally are involved with the student rentals and the parents undertake and sign the Agreement of Leases, they also pay for the rentals and other costs, while also being the guarantors for the rental payments and the other costs. Deposits covering any damages and the possible non-payments for all the costs required from the lessees, must be included in the Agreement of Leases
- It is advisable for landlords to have house rules that the students must agree to and sign off on before the Agreement of Leases is accepted and signed

IN CONCLUSION

Just a reminder that Artemis Property Management are highly experienced and efficient in the renting and leasing residential market and we have been involved with many very successful rentals with very happy tenants and neighbours in the neighbourhoods!

➤ **THE MOST SUITABLE TENANTS**

All tenants need to feel that the properties they are leasing are important assets and prized possessions and they need to respect and treat the properties that they lease as the important assets and prized possessions that the properties are to the landlords.

It is the top priority to choose the most suitable and responsible tenants that have very good financial track records and other references, who will respect and care for the rental properties they lease and also honour their Agreement of Leases.

➤ **COMMUNICATIONS ARE ALWAYS KEY AND ARE MULTI-WAYS**

All the parties involved in Agreement of Leases will need to have open and ongoing communications with one another. Communication about any kind of concerns and/or grievances is absolutely vital!

➤ **INVOLVE AND APPOINT HIGHLY EXPERIENCED AND EFFICIENT RENTAL AGENCIES**

All rental experiences involve a lot of paperwork for the rental experiences to be very successful. Ensure to appoint Artemis Property Management to manage your rental property portfolios for you and we will take the headaches you may have regarding your rental properties and tenants, under our Artemis wings instead!

MORE NOTES THAT ARE INFORMATIVE AND FOR THE EASE OF REFERENCE FOR LANDLORDS

THE RENTAL DEPOSITS

THE BREACH OF CONTRACTS

HOW TO RESOLVE DISPUTES WITH TENANTS

RENTAL PAYMENTS THAT ARE LATE AND EVICTIONS

RENTAL ESCALATIONS NEGOTIATIONS

THE ENDING AND THE TERMINATION (CANCELLATION) OF THE LEASES

HOW TO CALCULATE THE TAX ON THE RENTAL INCOMES

THE RENTAL DEPOSITS

By law, landlords are legally entitled to request and receive deposits from their tenants and this is according to Section 5 of the Rental Housing Act (RHA), No. 50 of 1999. The deposit amounts can range from one to two to even three months rent and this will be agreed to between the landlords and the tenants and then stated in the Agreement of Rentals or Leases

The reason landlords require deposits

To protect landlords against defaulting tenants and the long and expensive processes to evict the defaulting tenants

Tenants are protected by the Prevention of Illegal Eviction from Unlawful Occupation of the Land Act, No. 19 of 1998 (the PIE Act). So, it can take up to eight to ten weeks for an eviction order to be received, in which time the landlords are not receiving any rental payments.

Landlords are also required to pay for the legal costs and when an eviction is unopposed by the tenants, the legal costs and disbursements can cost anything from R12,000 to R20,000. An opposed eviction will cost the landlords a whole lot more and this is the reason landlords request one or two or even three months rent in deposits to hold as security measures, in the event that the tenants default and are in breach of the Agreement of Leases.

What do the landlords do with the deposits received from the tenants

The Rental Housing Act (RHA) requires the landlords to invest the deposits in interest bearing trust accounts with financial institutions. Statements of interest earned on the deposits can be requested by the tenants while they lease the rentals.

Deposits remain the tenants money, even though the landlords have requested it and invested it. However, the deposits will serve as security measures for the landlords, in the event that the tenants default or are in breach of the Agreement of Leases.

Tenants will receive their full deposits plus interest back within 7 days from the landlords after the date of expiry of the leases, only if there are no damages to the rentals during the tenants occupation of the rental properties.

What deductions are allowed and can be made from tenants deposits according to the Rental Housing Act (RHA)

If there are any repairs and new replacements installations required to rectify the damages caused by the tenants during their occupation of the rentals, then the damages and new replacements will be assessed and recorded by the landlords, or the Rental Agency during the Outgoing inspection with the tenants. Then only after the contractors and suppliers have carried out and successfully completed the required repairs and new replacement installations, will the landlords or the Rental Agency refund the tenants with the remainder of the deposit within 14 days, only after all the costs for the repairs and new replacements on the rental properties have been deducted from the deposits.

The tenants can request to view all the repairs and new replacement installations receipts to ensure that their deposit money was spent on the damages that they caused on the rental properties, during their occupation of the rental properties.

The landlords must not use the tenants deposits for general maintenance and the upkeep of their rental properties.

THE BREACH OF CONTRACTS

The breach of contract occurs when one or more parties involved in the Agreement of Lease and have agreed to and signed the Agreement, then they have failed to perform or are late to perform on their contractual obligations and the breach of contract will have legal implications

Examples of tenants breach of contract

The non-payment of rents and other required payments
Executing structural changes to the rental properties
Pets on the rental properties, when no pets are allowed

Examples of landlords breach of contract

Not maintaining the rental properties as set out in the Agreement of Leases.
The tenants must provide proof that the landlords are in breach of contract and have failed to honour the Agreement of Leases

Can landlords do anything about the breach of contract by the tenants

When the breach is a minor one, landlords are allowed to give tenants 20 working days notice to repair or rectify the breach and this is according to the Consumer Protection Act (CPA). If the tenants do not repair or rectify the issue within the 20 working days time frame, the landlords can cancel the leases by providing a notice of cancellation of the leases to the tenants.

In the case of a major breach in contract, landlords can completely cancel the leases and inform the tenants to move out with immediate effect.

When the Agreement of Leases includes clauses to protect landlords against tenants in breach of contract, the Rental Housing Act (RHA) recommends that the cancellation of leases must still be carried out by the landlords in all fairness. One of the clauses the Act is referring to is that landlords have the right to cancel the leases when tenants fail to pay their municipal charges on time, however, the landlords are still required by the Act to follow the prescribed procedures for the cancellation of Agreement of Leases.

Is it a breach of contract when Agreement of Leases are ended prematurely

What does the cancellation clause within the Agreement of Leases stipulate?
Only when there are grounds for cancellation listed in the cancellation clause in the Agreement of Leases, can the cancellation be implemented, however, without any recourse the cancellation of the leases will prove to be quite difficult.

If the Agreement of Leases do not contain a cancellation clause, both the landlord and the tenant can be in breach of contract, when the decision is made either way to terminate the contract prematurely.

HOW TO RESOLVE DISPUTES WITH TENANTS

The Rental Housing Tribunal (RHT) implements the Rental Housing Act (RHA) and the Rental Housing Tribunal provides free advice to landlords and tenants to help them resolve disputes without needing to spend a lot of money via the utilization of legal means. The resolution of the disputes can range from the verbal or written Agreement of Leases, to deposit refunds, to rental non-payments, to properties damages, to utilities, to evictions, to rights and duties and so on.

Who can lodge a complaint with the Rental Housing Tribunal (RHT)

Anyone who is involved via Agreement of Leases in rental properties can lodge a complaint with the Rental Housing Tribunal. This service is free to both landlords and tenants and each party can represent themselves in the matter.

The RHT informs the landlords and tenants of their rights and responsibilities according to the Rental Housing Act (RHA) and the RHT will then investigate and then mediate the matter and help to resolve the complaints by offering recommendations to the parties involved.

Process to be followed to lodge complaints with the Rental Housing Tribunal (RHT)

1. By law, landlords and tenants complaints must always be in writing. It is imperative to contact the Rental Housing Tribunal (RHT) office within your area of residence because the provincial offices all have different forms for the complaints that are lodged and these forms completed by the landlords and tenants may be faxed to the RHT office in your residential area. After submitting your complaints, the onus is on the landlords and the tenants to undertake the following up of the complaints, to ensure that your complaints have actually reached the person at the RHT offices who has been assigned to investigate and deal with your complaints.
2. Landlords and tenants will receive reference numbers, when their cases for their complaints are opened at the RHT offices
3. Within 30 days after receiving the complaints and after the investigations and assessments via the RHT offices have taken place, the RHT will decide if the complaints are unfair practice, or not so and the RHT offices may request more information from either the complainant or respondent. If applicable, the RHT offices may decide to appoint an inspector to inspect the rental properties in question for a report back on the complaints
4. All parties will be informed in writing, if the complaints are assessed to be unfair practice and then mediation will be presented to the parties with a date and time for meetings. Mediations are informal and confidential meetings and the parties can discuss their complaints and issues in the presence of trained and experienced mediators, who will be impartial and will assist the parties to arrive at an amicable and acceptable resolution. Only the landlords and tenants will make the final decisions and when the parties have come to an agreement and then the agreement will be made an order of the court. If the parties cannot reach an agreement at the mediation, the case in question will be transferred to a formal hearing for the ruling

RENTAL PAYMENTS THAT ARE LATE AND EVICTIONS

No tenants can just be evicted by the landlords because the tenants are protected by the Prevention of Illegal Eviction from Unlawful Occupation of Land Act, No. 19 of 1998 (the PIE Act). The Act applies to any premises that constitutes a dwelling, such as the rental residential properties of the landlords that they lease to tenants.

1. Landlords must immediately contact their tenants verbally, when the agreed upon rental payment date has gone by to inform the tenants that their payments are overdue. Landlords can agree on a later payment date, if the tenants are having financial problems, but landlords are not obliged to agree to the alternative later date for the payments
2. Landlords must send the tenants written notices that they have breached the Agreement of Lease. Landlords must always ensure that their Agreement of Leases are in line with the Consumer Protection Act (CPA) and this Act stipulates that the landlords must provide tenants with notices of at least 20 business days to give the tenants enough time to rectify the breach
3. If within the given 20 business days time frame, the tenants have not rectified the breach, the landlords may undertake the following :-
 - A Summons or immediate cancellation of the Agreement of Lease
 - After the Summons has been issued and the tenants still have not rectified the breach, for example the tenants have not paid the outstanding rental payments, the landlords can cancel the lease agreements
4. When the lease agreements are cancelled, the tenants will no longer enjoy the protection of the Prevention of Illegal Eviction from Unlawful Occupation of Land Act, No. 19 or 1998 (the PIE Act) and the tenants are then illegal occupiers of the rental properties and the landlords will be able to evict the tenants legally as per the PIE Act. When the leases are cancelled, landlords will be able to proceed with the summons and eviction simultaneously
5. To evict illegal occupiers, application must be made to Magistrates Courts or the High Courts. This will take between 8 to 10 weeks for the eviction order to be granted and only when the eviction application is unopposed. It is fair practice for landlords to give the tenant another 14 days to find other accommodation before the eviction order is carried out.

RENTAL ESCALATIONS NEGOTIATIONS

When the date for the expiry of the lease agreements arrive, the landlords and tenants must make the decision to agree to renewal of the leases and what escalations will be required.

When will the leases not be renewed

- The tenants are often late with their rental payments
- The tenants have made some unreasonable demands
- The tenants are disrespectful and dishonest about maintaining the rental property in a reasonable manner

- The tenants often don't co-operate when the landlords or the Rental Agency need to undertake the inspections of the rental properties. The tenants are also uncooperative with the access to the rental properties for contractors to carry-out and rectify the required problematic issues that the landlords and tenants may have in the rentals
- The complaints received from the neighbours
- Sectional Title management bodies complaints about the tenants conduct in the complexes or apartment buildings and the neighbours residing here

The rental escalations misconceptions

- The escalations maximum is only 10%
- Escalations must be in line with the inflation
- Landlords are obliged to undertake upgrades, when the rent is increased

How to negotiate escalation amounts

The escalations must provide a fair return on the landlords investments and it must be market-related! 10% is generally the industry standard, however, the landlords may increase the rents by more than 10% to be market-related.

Rental increases are always influenced by the supply and demand for rental properties. Tenants do not need to accept the increases on the rentals that the landlords have proposed to them.

The tenants can negotiate lesser increases and the landlords will need to decide if this will be acceptable, or not, or rather select new tenants who will be willing to pay the increase in the rentals. At times, it will be better for the landlord to accept reliable and good tenants lesser increase offers, rather than risking it to find other new tenants, who may become in breach of the Agreement of Leases

THE ENDING AND THE TERMINATION (CANCELLATION) OF LEASES

It is normal practice for either the landlords or the tenants to issue notice they will not be renewing the lease on the expiry date of the lease. In the lease agreements, the renewal clause will state the notice period

When the lease agreement anniversary date has expired and the tenants have not moved out of the rental properties, the tenants have then effectively entered into new lease agreements and will therefore need to follow the prescribed procedures to cancel the lease agreements. In the event that there are no cancellation or renewal clauses in the lease agreements, it is always good and standard practice for either the landlords or the tenants to give one month's written notice before the lease agreements expiry dates, that is, if either the landlords or the tenants do not want to renew the lease agreements. If this does not take place, either the landlords or the tenants may be in breach of contract

What are the consequences when tenants break the lease agreements before the expiry dates

Tenants cannot just terminate the lease agreements, while the landlords have met all the responsibilities and conditions required from them as per the lease agreements. Tenants will need to discuss their wishes to terminate the lease agreements before the expiry dates with the landlords and recommend that other tenants can take over the current lease agreement from them or may be to even sub-let the rental properties for the remainder of the lease agreements.

Therefore, it is essential that the lease agreements between landlords and tenants are always made in writing to avoid any misunderstandings and problems down the line

The landlords have the right to demand that the tenants pay the rental payments due to them for the remainder of the lease agreements leasing period, if the tenants have not discussed the premature termination of the lease agreements before the expiry dates with the landlords

The landlords also have the right to recoup any reasonable costs that incur during the landlords search for replacement tenants, when the current tenants end the lease agreements prematurely and the current tenants can be liable to pay for the loss of rental income, the advertising of the rental properties and if applicable, the letting agency commissions. However, the landlords cannot demand exorbitant costs and just charge the tenants as they please. Landlords must repay the tenants their full deposits plus interest back within 7 days after the expiry date of the lease agreements, unless the tenants have caused damages to the rental properties during their occupation of the rentals.

The repairs and new replacement installations required to rectify the damages, will be assessed by the landlords or the Rental Agency and records will be made. The tenants will only receive the remainder of their deposits back within 14 days, only after the required repairs and new replacements have been carried out and completed and deducted from the tenants deposits

Only when the landlords have not upheld their responsibilities in the lease agreements and they are then in breach of contract, can the tenants then cancel or terminate the lease agreements prematurely without being in breach of the lease agreements and needing to pay any penalties. However, it is for the tenants to prove that the landlords are in breach of contract and they have not upheld their responsibilities in the lease agreements

Landlords will have to obtain written agreements with their tenants, when the landlords want to terminate the lease agreements prematurely. If the landlords sell off their rentals, the current lease agreements stays with the properties and the new owners who have purchased the properties, will automatically become the new landlords and the tenants will only need to move out of the properties when the current lease agreements have expired

HOW TO CALCULATE THE TAX ON THE RENTAL INCOMES

The Landlords rental income tax deductions

Landlords must declare the full amounts of their rental incomes as part of their taxable incomes. There are deductions that landlords can make, such as non-capital expenses, certain expenses incurred during the leasing of their rental properties. Deducting these certain expenses can put landlords in a lower tax bracket that landlords will benefit by

Non-capital expense examples that landlords can offset against the rental incomes

- Interest paid on home loans
- Rates, taxes, security and property levies
- Rental Agency commissions or fees
- Advertising costs to market the rental properties
- Insurances, such as homeowners insurance, but not household contents insurance
- Repairs and replacements due to tenants damages in the leased rentals, but excluding any improvements and additions to the rental properties
- If applicable, garden services

No capital expenses can be deducted

No expenses of a capital nature can be deducted, this includes any expenses incurred while improving or adding additions to your rental properties

If landlords undertake to carry out repairs and improvements to help them to sell off the properties and there are no tenants occupying the properties, landlords cannot deduct any of these expenses because these repairs and improvements did not occur while there was tenant occupancy at the properties

What about net rental losses

If landlords deductions exceed the rental incomes received and landlords want to declare net rental losses, there is a ring-fencing provision that could come into play via the Income Tax Act depending on the circumstances. If this ring-fencing provision in the Act is applicable, landlords cannot offset their rental losses against their rental incomes received via other sources

To make life much easier for the landlords, tax consultants should be appointed

It always is a difficult task to know what expenses can be tax deductible and which expenses are not! It is better to rather consult with tax consultants or financial advisors who will help you through the whole tax return process

Be aware, tax evasion always is illegal

Landlords or Rental Agencies must provide SARS with records of rental incomes received and in the case of the Rental Agencies, the rental incomes that were paid over to the landlords. In this way, SARS will be able to trace any discrepancies in the landlords tax returns. If landlords evade paying tax on their rental incomes, landlords can be found guilty of tax evasion after an audit is undertaken and landlords may face heavy penalties or even imprisonment.

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