

Housing Tribunal's ruling deemed to be a court order

Sayed Iqbal Mohamed

IT WOULD be proper to acknowledge the contribution of the late Dumisani Makhaye, MEC for Local Government, Housing and Traditional Affairs in the rental housing market. He pursued with passion the establishment of a body to resolve conflicts between landlords and tenants and to protect both from exploitation and unfair practices. He was part of the process from the initial stage to the official launch of the KwaZulu Natal Rental Housing Tribunal.

By June 2002, Mr Makhaye had the Tribunal up and running. It was the first time in KwaZulu Natal that landlords and tenants of residential dwellings could lodge a complaint with a body to have their dispute resolved at minimum cost. After appointing members to the Tribunal as required by legislation, Mr Makhaye never interfered with the independence of Tribunal. There were complaints against the provincial department of housing as landlord. Neither he nor any of his staff approached the Tribunal for "concession" or "favour" but accepted the outcome of the adjudication process. When the department of housing initiated a complaint against its tenant, it followed the same procedure as any landlord or tenant.

What is a provincial Rental Housing Tribunal? A Tribunal is established by the MEC- a Member of the Executive Council of a province responsible for matters relating to housing. He or she appoints between three to five members as required by the Rental Housing Act, 50 of 1999 to serve a three-year term. Once the Tribunal is formed, it functions as an autonomous

body; independent of the Department and Ministry of Housing. The Tribunal has staff responsible for taking down complaints, attending to other administrative matters, and include staff who may be required to mediate, inspectors and technical advisors.

After a complaint is lodged, the Tribunal may require parties to resolve their conflict through mediation. It may summon parties to a hearing that is presided over by at least three members. A failed mediation is automatically referred to the Tribunal for a hearing

It has exclusive jurisdiction on unfair practice because any dispute relating to an unfair practice must be determined by the Tribunal unless the matter was already before another court [section 13(9) of the Rental Housing Act, 50 of 1999]. The Tribunal is empowered to terminate an unfair practice that include a tenant's failure or refusal to pay rental, illegal lockout, unlawful disconnection of services such as electricity and water supply, tenant creating a nuisance, overcrowding, exploitative rentals, lack of maintenance, unacceptable living conditions. Its ruling is deemed to be an order of a magistrate's court in terms of the Magistrate's Court Act, 1944 (Act No 32 of 1944).

Contact details of the 4 provincial Rental Housing Tribunals: Gauteng: (011) 355 4290; Western Cape: (021) 483 3107; KwaZulu Natal: (031) 336 5300; North West Province: (018) 387 6000
