

Is landlord responsible for accommodation?

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IS A landlord required to provide alternate accommodation to a tenant who is given notice to vacate? If the present dwelling is fully furnished in an access controlled building, and the rental is inclusive of water charges, must the landlord find a similar dwelling?

Given the fact that housing is the government's responsibility, a landlord in the private sector is not obliged to find a suitable, alternate dwelling. Also, the rationale of the government in overhauling the landlord-tenant law included the need to motivate the private sector to build more dwellings.

It believed that providing a free market opportunity regarding rental would encourage the private sector into a "partnership" to ease the rental housing backlog.

In the United States, decades after the abolition of rent control, despite its re-introduction, amendments, subsidy for low-income tenants and other laws and incentives, there is still an under-supply.

The private sector complained bitterly about rent control measures and lobbied for changes. Getting rid of rent control law did not stimulate the rental housing market and rentals are high in spite of the subsidy.

Renting a dwelling from a private landlord is a "private / civil contract" that binds parties. The contract to lease

is governed by certain law, like the law of contract, the common law and the Rental Housing Act.

The demand for accommodation is very high and a notice to vacate places a great burden on a tenant. There is no law to protect a sitting tenant, a tenant who is in occupation for a long time. Landlords rent out because rental income is lucrative revenue and often a new tenant is willing to pay higher rental. This leads to displacement of an old tenant even though such a tenant was a "model" tenant.

Although a judgment by the Constitutional Court has slowed down the process of eviction by requiring one to inform the local municipality of the pending eviction. This formality is not as rigorous as it seems, does not prevent the eviction and the municipality does not provide accommodation.

It is therefore correct to say that landlords in South Africa do not have to provide alternate accommodation for their tenants who are served with a notice to vacate. The government is not under any obligation to provide alternate accommodation to an evictee, or at least has not seen its role as such, even though the constitution states that everyone has the right to have access to adequate housing [26(1)].

The courts too generally do not consider all the relevant circumstances of a tenant to be displaced while the constitution requires it to do so [26(3)].