

# Landlords, tenants must know their rights

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## **Landlord, tenant and rights and duties of a body corporate.**

What is the relationship between a tenant, landlord / landlady and owners in a sectional title scheme? What rules can a body corporate enforce?

Landlords and tenants in a sectional title scheme have a responsibility to ensure that their rights and obligations arising from a lease contract are protected.

The relationship between tenant, landlord / landlady and a body corporate can be acrimonious when parties are unaware of the legal boundary that clearly lays down each party's rights, duties and responsibilities.

Essentially, a lease between tenant and landlord is a contract that allows the tenant full and undisturbed use and enjoyment of the dwelling for a temporary period.

The owner's and tenant's rights and responsibilities are contained in the Rental Housing Act, 50 of 1999 (RHA), and aspects of the common law and law of contract not modified by the RHA.

A body corporate is made up of all the owners who elect trustees to manage the sectional title scheme. Trustees have tremendous powers and are compelled to perform a very complicated and demanding job, often acting as mediators, peace officers, debt collector and administrators.

Most bodies corporate have a policy that enables them to have a decisive say, if not an absolute right, in the choosing of a tenant. This requires a prospective tenant being

interviewed by a "committee". When a tenant breaches the conduct or house rules, some trustees believe that they have the right to cancel the lease and have the tenant evicted.

It is the individual owner who has the right to interview a prospective tenant and enter into a lease without the "assistance" of the trustees.

A body corporate has wide powers to do all things legally necessary to enforce rules, especially the Management and Conduct rules. Management and Conduct Rules are contained in the Regulations (annexures 8 and 9 respectively) to the Sectional Titles.

Owners and their tenants are required to respect the rules so that every person has full use and enjoys occupying the dwelling. It is the landlord's responsibility to attach the copies of the rules to the lease contract, so that the tenant can be familiar with all the requirements of the lease, together with the rules.

Should the tenant breach the rules, the landlord can follow the procedure for breach and eventually has the right to cancel the lease. The body corporate cannot terminate a lease, but it can take action against the landlord for failing to take remedial action in terms of its management and conduct rules.

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