

Lease Agreement

Can a tenant dispute a rental increase when they previously rejected the landlord's undertaking to carry out repairs and maintenance?

Tenants challenge rental increases they believe are not justified due to repairs and maintenance issues not attended to by the landlord.

Under common law, the landlord is obliged to deliver the building hired in a fit and proper state for the purpose intended; and is further liable to the lessee for any damage caused by a defect in the property leased, where they have knowledge of such defect, or by reason of his trade or calling he ought to have known of the defect.” (Kotze, C.J. in *Atkins v Delport*, 1903 13 CTR 686). According to Beyers JA (in *Harlin Properties (Pty) Ltd and another v Los Angeles Hotel (Pty) Ltd*, 1962 3 SA 143 (A) the landlord is obliged to deliver the property reasonably fit for the purpose for which it was let and also to maintain

it in that condition during the currency of the lease.

If the tenant knew of the defects and the state of disrepair prior to entering into a contract and accepted the dwelling with the defects, the tenant cannot, under common law, compel the landlord to carry out repairs.

What then is the situation when a landlord informs the tenant that they intend to carry out renovations and repairs and requires the tenant to vacate the dwelling for a short period?

The tenant, owing to temporary relocation costs and inconvenience, may decide to stay on, and may notify the landlord that they are willing to live under the conditions of disrepair? The landlord cannot, in such circumstances, be held liable for any damage claim that may arise as a consequence to the state of disrepair because of an unequivocal undertaking to remedy the problems.

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