

Rights and wrongs of tenant/landlord relationship

SAYED IQBAL MOHAMED

LAWS and regulations dealing with tenant-landlord and sectional title have recently undergone changes and more are underway. The Daily News is publishing a series of articles as a guide to people involved in tenancy and sectional title schemes and to keep readers updated on the changes.

Beginning this week, Sayed-Iqbal Mohamed, chairman of the Organisation for Civic Rights, will provide an overview of the new regulations. Mohamed is also a member of the KwaZulu-Natal Rental Housing Tribunal.

Disconnection of services by a body corporate to an owner's unit.

The electricity supply was disconnected to a flat owned by Mrs Van Wyk in a sectional title scheme. The chairperson told her that since repeated written appeals to pay outstanding levies totalling R 25 000 were not heeded, the body corporate decided to disconnect the electricity supply.

The body corporate argued that it owned the power supply cables in the sectional title block. Accordingly, it had the right to disconnect the electricity or, for that matter, have the plumbing re-routed to prevent the supply of water to her unit for outstanding levies.

Rights and Obligations: The body corporate does not have the right to disconnect the electricity supply. This would tantamount to taking the law into its own hands.

Remedy: Van Wyk had the option of bringing an urgent application (spoliation) to have the service re-connected, but this would have cost her several thousand rands to get an interim order. She decided to arrange for the outstanding levies to be paid in instalments. Refer to Section 44(1) (d); Rules 68(1) of the Sectional Titles Act, No 95 of 1986.

Non-Payment of rentals: Mr Khan decided to evict his tenant for rental arrears. Ms Cele and Khan had a verbal agreement that rental would be paid on the first day of each month. After the first few months, Cele lost her job and was unable to pay the rentals on time, but managed to make payments every month.

Rights and Obligations: Khan cancelled the lease on the basis of late payment. Cele ignored the notice to vacate. Khan then proceeded to evict her by issuing a summons. His argument was that Cele was obliged to pay rentals due on the first of every month, but failed to do so.

Remedy: Cele defended the legal action. Her defence was that Khan accepted late payments of rentals. He was therefore estopped (prevented) from evicting her on the grounds that she breached the terms of her agreement. Refer to sections 4 (5) of the Rental Housing Act, No 50 of 1999.

How to recover non-payment of rents will be discussed later.

- Names used in the articles are fictional.