

# Who carries the can for repair costs?

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Last week a listener posed a question on Durban Youth Radio whether a landlord could demand that his tenant repair the bathroom. Would the Rental Housing Act 50 of 1999 apply to the dwelling in question that was situated in the backyard in a "township"? What recourse would the parties have to enforce their rights if there is a dispute?

The first aspect of scrutiny is the contract between the parties. What were the terms and conditions regarding maintenance and repairs? If the lease contract is silent about this, then the landlord is responsible in terms of the common law. Where parties agreed that the tenant would undertake maintenance and repairs, the tenant is under duty to fulfil his or her obligation, unless such repair or maintenance was the result of wear and tear.

The Rental Housing Act would apply to any dwelling located in South Africa: inner cities, "townships" and rural areas; formal dwellings and informal ("shacks"). Either the landlord or the tenant can approach the provincial Rental Housing Tribunal or any court to have the dispute resolved. There are certain provisions of the Act that operates independent of provincial Rental Housing Tribunals. We will discuss this next week.

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