

Tenants shut out after ruling

Tribunal rules for landlord in dispute

WHEN Ntombintathu Limana and four other tenants lodged a complaint of unfair practice with the KwaZulu-Natal Rental Housing Tribunal (RHT) on March 3, they did not anticipate being locked out after receiving a ruling last week.

TENANT ISSUES

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The tenants risked approaching the RHT for relief since they were not prepared to pay a further increase for their cubicle structures, which required maintenance, having suffered illegal disconnection of services and intimidation in the past.

Limana and her fellow tenants are street traders and only just manage to pay the rents for their accommodation, which range from R800 to R1 600 a month.

They pay about R400 a square metre for their spaces, compared with R73 a square metre for an upmarket apartment consisting of two bedrooms, a kitchen, a toilet and a bathroom in Musgrave.

A great deal of freedom, individual space, security and peace of mind seem to be compromised in securing shelter, with financial, psychological and physical implications.

Compact cubicles packed close together have emerged as the dominant form of housing for the city's poor.

Their occupants say they are not even below-average quality, and may be considered uninhabitable, with health and safety risks often extremely high.

They say they are inadequate in terms of size and value for money, and offer no privacy, which in turn means no dignity.

This is the type of accommodation one would associate with distressed neighbourhoods or slums, and those who live in it say a community of slumlords is to blame for creating these shabby shelters across the inner city and suburbs.

Limana and her fellow tenants say they have no financial security or proof of regular income, so are forced to take accommodation in buildings like Abdul Aziz in Bertha Mkhize (Victoria) Street, Durban.

Disregarded

They say they share the communal facilities, which are inadequate for the large number of occupants on each floor, and that's why the R200 increase in their rent for their small space wasn't justified.

On Friday, October 7, they say they were locked out, and only managed to retrieve their ID books and one child's school uniform and bag with help from the police. According to the tenants, their landlord,



HOMELESS: Discussing their legal options are, from left, Zandile Mpande, Ntombintathu Limana, Bulelwa Beme, Nokuzola Bofela and Nomfundo Mayaba.

Dawood Clifford, disregarded the letter from Legal Aid that they should be reinstated.

The police said that since it was just a letter and not a court order, there was nothing they could do.

Earlier in the day, an attempt to interview a person who is considered the owner, resulted in his management and security personnel taking possession of the camera-phone containing photographs of the cubicles.

The owner said: "My guys are from Zimbabwe, they don't play, they will finish you up." He instructed his staff to "smash the phone".

It is worth noting a ruling of the RHT, below, which the tenants can only challenge through the high court. In the absence of documentary evidence of improvements, which the tenants could have contested at Limana's hearing, the RHT granted the increase in rents, notwithstanding a report from its inspector about the "small cubicles".

The RHT's ruling of June 9, 2011, reads as follows:

"Ruling of the Rental Housing Tribunal in terms of section 13 of the Rental Housing

Act (Act No 50 of 1999); case number 13/8/3/24/02/196/11. Whereas the complainant Ms N Limana and the respondent Mr D Dawood were in dispute under case number 13/8/3/24/02/196/11 before the tribunal, duly constituted by Mr Das Moloi (Chairperson), Mrs P Dabideen (member) and advocate NZ Kuzwayo (member).

"Having heard the evidence of all the parties, the KwaZulu-Natal Rental Housing Tribunal makes the following ruling in terms of Section 13 of the Rental Housing Act (Act No 50 of 1999):

"In this matter the complaint relates to rental increase. The complainants are of the view that the proposed increase is exorbitant and unfair. There are five complainants with five different case numbers. They are occupants of room numbers 33, 35, 37, 5 and 26.

"All complainants were dealt with as one under case number 196/11. Ms Limana, occupant of room 35, testified on behalf of all complainants. Ms Mpande of room 33 gave evidence in support of Ms Limana. All other complainants confirmed that they agreed with evidence as tendered. In summary their ev-

idence is that:

"1. With the previous landlord their rental used to increase by R50. They wanted a similar rate of increase or at least by R100.

"2. The condition of the premises did not justify the proposed increase in rent.

"Room 35: from R900 to R1 000; Room 37: from R800 to R1 000; Room 5: from R800 to R1 000; Room 26: from R800 to R1 000; Room 33: from R1 500 to R1 700.

"They conceded that the respondent, who became the new landlord only on January 1, 2010, had effected certain improvements, but were of the view that the said improvements were not substantial enough to justify such an increase in rent.

The respondent, Mr Clifford, gave evidence in detail on the improvements he had made on the property. He told the tribunal that this was a commercial establishment, which had been partitioned into rooms. Since he took ownership he had made the following improvements:

"1. The partitioned walls, made of dry wall, were increased from single wall to

double walls.

"2. Windows were installed.

"3. Lights were installed.

"4. 24-hour security was introduced.

"5. Water flow was improved.

"6. Showers were tiled and shower curtains introduced, as well as extra taps.

"7. All rooms now have lights and switches.

"8. Walls had holes and had been patched these up.

"From the evidence the tribunal accepts that the respondent has improved the premises quite significantly.

"He has invested in the well being of his tenants. The rent increase is not unfair.

"The respondent is entitled to a return on his investment and the amount charged is fair.

"The said increase of R20 in respect of rooms 37, 5, 26 and 33 shall remain in force.

"In respect of room 31 rental increase is reduced from R1 300 to R1 100."

Dr Sayed Iqbal Mohamed is the chairman of the Organisation of Civic Right. Website: www.ocr.org.za. For tenants' rights advice, contact Pretty Gumede at 031 304 6451