

IN THE GAUTENG RENTAL HOUSING TRIBUNAL

HELD IN TSHWANE

CASE NUMBER RTT 0082/17

PAUL JOUBERT

COMPLAINANT

AND

LATITIA SMITH

RESPONDENT

RULING

INTRODUCTION

This is a ruling arising out of the hearing held by the Tribunal on **08 MAY 2017**.

1. This is a ruling of the tribunal in the dispute between **PAUL JOUBERT** (the Complainant) and **LATITIA SMITH** (the Respondents) (herein after referred to as the parties).
2. The Complainant was present;
3. The Respondent was absent despite being subpoenaed;
4. The matter was partly heard;
5. The dispute relates a claim for the following:
 - Lock out;
 - Attachment of goods;

- Non-refund of deposit
- Loss of income

LEGISLATIVE MANDATE

6. The hearing was conducted in terms of section 13(2) of the Rental Housing Act 1999(the Act). Section 13(2) (d) provides that;

“where the tribunal is of the view that the dispute is of such a nature that it cannot be resolved through mediation or where a mediator contemplated in paragraph (c) has issued a certificate to the effect that the parties are unable to resolve the dispute through mediation, conduct a hearing and subject to this section, make such a ruling as t may consider just and fair in the circumstances”

7. **The tribunal is required to rule on the following;**
 - 7.1 **Lock out;**
 - 7.2 **Attachment of goods;**
 - 7.3 **Non-refund of deposit;**
 - 7.4 **Loss of income**
8. Unless otherwise stated, reference to a regulation in this ruling refers to those regulations. section 13 (4) provides that:

(4) Where a tribunal at the conclusion of a hearing in terms of paragraph (d) of subsection 2 is of the view that an unfair practice exists it may:

(a) Rule that any person must comply with the provisions of the regulations relating to unfair practises;

(b) Where it would appear that the provisions of any law have been or are being contravened, refer such matter for an investigation to the relevant competent body or local authority;

(c) Make any ruling that is just and fair to terminate any unfair practice.

9. The ACT defines unfair practice to mean:

(a) Any act or omission by a landlord or tenant in contravention of this Act, or

(b) A practice prescribed as a practice unreasonably prejudicing the rights and interests of a tenant or a landlord;

10. Section 5 (3) (g) of the Rental Housing Act of 1999 that governs the refund of deposit and it specifically provides the following:

“on the expiration of the lease the landlord may apply such deposit and interest towards the payment of all amounts for which the tenant is liable under the said lease, including the reasonable cost of repairing damage to the dwelling during the lease period and the cost of replacing lost keys and the balance of the deposit and interest, if any must be refunded to the tenant by the landlord no later than 14 days of restoration of the dwelling to the landlord.”

11. SECTION 13(13) AND 16(g) OF THE RENTAL HOUSING ACT 1999(THE ACT) provides that:

11.1 section 13(13) of the Act, which provides that:

“A ruling by the Tribunal is deemed to be an order of a Magistrates Court in terms of the Magistrates court Act, 1944 (Act No 32 of 1944) and is enforced in terms of that Act, and

10.2 section 16(g) of the Act, which provides that:

“Any person who fails to comply with any ruling of the tribunal in terms of section 13(4) will be guilty of an offence and liable on conviction to a fine or imprisonment not exceeding two years or to both such a fine and imprisonment.”

10. BACKGROUND

10.1 The parties agreed testified and gave the following evidence:

10.2 The property that forms the subject matter of the current compliant is in unit 86 S.H Mac Stellenberg Road, Equistria;

10.3 The Complainant and the Respondent had entered into a written lease agreement;

10.4 The principal terms and conditions of the lease were the following:

10.5 The rental was in the amount of R10 500.00 (Ten Thousand Five Hundred Rand) excluding water and electricity;

10.6 The deposit was in the tune of R9 200.00 (Nine Thousand Two Hundred Rand);

10.7 The Complainant took occupation on 01 September 2015 and was locked out on 31 January 2017;

11. SUMMARY OF EVIDENCE

11.1 LOSS OF INCOME

The Complainant is claiming loss of income and stated that he is running Meropa Communications and that he had an aerial which enabled him to broadcast on the internet for Kuber Kontrei radio station.

11.2 RULING OF THE TRIBUNAL ON LOSS OF EARNINGS

The issue of loss of income is postponed for hearing in July 2017 in order to allow the Complainant to bring the following with him to the next hearing:

- Proof of advertising contacts;
- Bank statements proving monthly income;
- License for radio station;
- Proof that he had the aerial on the premises and the purposes of the aerial thereof, furthermore
- If there is a claim for damages from either party, it must be brought forward on that day.

11.3 POSTPONEMENT

The matter is therefore postponed for hearing on **11 July 2017 at 10h30.**

11.4 SUBPOENA

The clerk of the Tribunal is to re-subpoena the Respondent on the following address:

Latitia Smith

6 Stellenberg Road, Equistria, Pretoria

012 807 7381 / 079 896 0211

latitia@macprop.co.za

12. GOODS ATTACHED

12.1 The Complainant stated that when he went to the premises on the 31st January 2017 to collect his goods he found out that the locks had been changed. He Further stated that they called the landlord, however, he refused to release the goods not unless the Complainant pays the R6000.00 (Six Thousand Rand) in arrears.

The Complainant further stated that he broke the window to release the dogs.

12.2 RULING OF THE TRIBUNAL ON ATTACHMENTS OF GOODS

12.2.1 Both parties are to find and agree on the quotation for window repairs, the total amount of the repairs will be deducted from the deposit.

The tribunal therefore, orders that the Complainant is to tender costs of window repairs from the deposit;

12.2.2 The tribunal orders that the Complainant's goods be collected on Friday 12 May 2017 at 16h00.

13. BLACKLISTED

13.1 The Complainant alleges that the Respondent has blacklisted him.

14.2 RULING OF THE TRIBUNAL ON BLACKLISTING

The tribunal orders that the Respondent remove the Complainant from any ITC or any blacklisting so as to finalise the Complainant getting a new premise.

14. DEPOSIT REFUND

Complainant's claim

The Complainant stated that he stayed with his girlfriend at the premises and contributed towards rental. He further stated that he gave a sixty (60) days' notice on 1 December 2016 to vacate end of

January, he then paid R7000.00 (Seven Thousand Rand) for both December 2016 and January 2017 rentals, that is, R3000.00 (Three Thousand Rand) less each month. In addition, asserted that arrears in the amount of R6000.00 (Six Thousand Rand) should have been deducted from the deposit.

14.1 RULING OF THE TRIBUNAL ON DEPOSIT REFUND

The deposit in the amount of R9 200.00 (Nine Thousand Two Hundred Rand) less R6000.00 (Six Thousand Rand) for arrears of two (2) months of R3000.00 (Three Thousand Rand) each, the balance will be R3200.00 (Three Thousand Two Hundred Rand) which is to be refunded to the Complainant.

15. RULING

15.1 The tribunal therefore orders that the Respondent is to refund the deposit balance of R3200.00 (Three Thousand Two Hundred Rand) less costs for window repairs within 14 (Fourteen) days of this ruling which is specifically 29 May 2017.

15.2 The Respondent is ordered to pay the amount referred to in paragraph 15.1 above into the Complainants bank account and the account details are as follows:

Banking details:

Name of the Bank : CAPITEC
Account number : 1272092087
Account Holder : P Joubert
Type of account : Savings

16. In the event that the Respondent fails to effect payment of the amounts they are ordered to pay (as per paragraphs 15.1 (above) on or before 29 May 2017, then the whole outstanding amount shall accrue interest at the rate of 10.5 % per annum calculated from 29 May 2017 to date of payment.

17.WARNING TO THE PARTIES

The parties were warned to be present at the next hearing of the tribunal being **11 July 2017 at 10h30.**

18.EFFECT AND PENALTY FOR FAILURE TO COMPLY WITH RULING OF THE TRIBUNAL -SECTION 13(13) AND 16(g) OF THE RENTAL HOUSING ACT 1999(THE ACT);

13.1 The parties' attention is drawn to:

a. section 13(13) of the Act, which provides that:

"A ruling by the Tribunal is deemed to be an order of a Magistrates Court in terms of the Magistrates Court Act, 1944 (Act No 32 of 1944) and is enforced in terms of that Act, and

b. section 16(g) of the Act, which provides that:

“Any person who fails to comply with any ruling of the tribunal in terms of section 13(4) will be guilty of an offence and liable on conviction to a fine or imprisonment not exceeding two years or to both such a fine and imprisonment.”

DATED AT JOHANNESBURG ON THE 9TH DAY OF MAY 2017.

MS M. MOHLALA-MULAUDZI

CHAIRPERSON

B MADUMISE DEPUTY CHAIRPERSON, MEMBERS S. LEDWABA, M. RAMALATSO, T. MAHLABATE, E. PERUMAL, R DAWAT, I MOTALA, R. MOKOENA, L. MAHLANGU, CONCUR WITH THE RULING OF THE CHAIRPERSON M. MOHLALA-MULAUDZI.

Contacts:

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Respondent: latitia@macprop.co.za