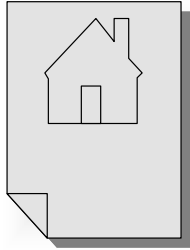


LEASE AGREEMENTS: RIGHTS, DUTIES & REGULATIONS



Entering into a lease agreement? Make sure that you understand your rights and duties!

WHAT IS A CONTRACT OF LEASE?

- ❖ A contract of lease is an agreement between a lessor or landlord (usually the owner of the property) and a lessee or tenant (you), which allows the tenant to use and enjoy the property in return for the payment of rent.
- ❖ The landlord and tenant must agree on:
 - ♦ the property to be leased
 - ♦ the amount of rent to be paid
 - ♦ the duration of the lease (*i.e.* how long it will run for)
 - ♦ when the rent is payable.

The RENTAL HOUSING ACT 50 of 1999 regulates the rental of properties which are let for housing purposes.

DOES THE LEASE HAVE TO BE IN WRITING?

- ❖ No. A verbal agreement is also valid.
- ❖ However, you have a right to ask for the terms of the lease to be recorded in writing. If the landlord refuses to do this, then in terms of the Act she/he commits a crime.
- ❖ A written lease must contain the following information:
 1. The names and addresses of both the tenant and landlord.
 2. A description of the property to be leased.
 3. The amount of rent payable, and the amount by which it may increase during the lease period.
 4. How often rent is to be paid (e.g. monthly).
 5. The amount of the deposit, if one is required.
 6. The lease period (i.e. how long the lease will run for). If there is no fixed period, then the notice period required in order to end the lease.
 7. Duties of both tenant and landlord.
- ❖ In addition to these, there are often other clauses in the lease, e.g. who will be responsible for the payment of electricity and water bills, maintenance of the garden, etc.
- ❖ If the landlord promises to fix or do something to the premises before you move in, try to have this recorded in writing before you sign the lease. It may even be added as a term of the lease.

Make sure that you read the lease carefully, and that you understand it. By signing it you are agreeing to all of its terms.

Make sure that you receive a copy of the lease agreement.

DURATION OF A LEASE:

A lease may be entered into:

1. for a **FIXED** period of time, e.g. a week, a month, a year.
2. for an **UNDETERMINED** period of time; this will generally end at a time decided by the landlord or tenant or both parties.

TERMINATION OF A LEASE:

- ❖ If the lease is for a fixed period, it will expire at the end of that period.
- ❖ If the lease is for an undetermined period, then the party who wishes to end the lease must give reasonable notice to the other party of this intention.
- ❖ The lease agreement itself may stipulate that a certain notice period (e.g. one month, three months) must be given in order to end the lease.
- ❖ Therefore, in some circumstances a lease may be brought to an end before the date originally set.
- ❖ A lease may also be renewable after the expiry of a fixed period.

WILL I HAVE TO PAY A DEPOSIT?

- ❖ The landlord may require you to pay a deposit before moving into the premises.
- ❖ The deposit is an amount which you will have to pay over and above your rent payments. It is normally payable when you enter into the lease agreement, and before you move into the premises.

WHAT WILL HAPPEN TO MY DEPOSIT?

- ❖ If a deposit is required, the Act states that the landlord must place the deposit into an interest-bearing account for the period of the lease.
- ❖ The deposit could be used at the end of the lease period to cover any outstanding money owed by you, e.g. non-payment of rental, repairs for any damage to the property caused by you, replacement of lost keys.
- ❖ Before you move into the premises, both you and the landlord must inspect the premises together, to see if there are any defects or damage to the property. A list of any defects must then be attached to the lease.
- ❖ Within 3 days before the lease ends, you and the landlord must again inspect the premises together, to see if any damage was caused to the property while you lived there.
- ❖ If damage was caused to the property while you lived there, the landlord is entitled to use your deposit to fix this.
- ❖ The landlord must keep receipts for any repairs or costs, and you are entitled to inspect these receipts.
- ❖ Any money remaining from the deposit and interest must be returned to you within 14 days after you have left the premises.
- ❖ If there is no money owing to the landlord, and no damage to the property, then you are entitled to have your full deposit and interest returned to you within 7 days after the lease has ended.
- ❖ If the landlord refuses to inspect the property at the end of the lease, it will be assumed that there is no damage to the property, and the full deposit must be returned to you.

Both you and your landlord have certain duties once you have entered into an agreement of lease. Some of these duties will be set out in the contract of lease, others are imposed by the law.

WHAT ARE THE DUTIES OF THE LANDLORD?

- ❖ To make the property available to you on the agreed date.
- ❖ To not disturb your use and enjoyment of the property. For example, the landlord may not enter the property or remove things from it without your permission, except if this is reasonably necessary.
- ❖ To provide the property to you in the condition agreed upon, and to maintain it in that condition.
 - ♦ The premises must be reasonably fit for you to live in. So, for example, it will not be acceptable if the plumbing does not work.
 - ♦ Normally the landlord will be responsible for maintaining the premises during the period of the lease.
 - ♦ However, it is important to check your lease agreement for any clause which makes the maintenance of the property your responsibility.

WHAT ARE MY DUTIES?

- ❖ To pay the rent. This is your most important duty. You must always pay the rent, on time, and in the manner agreed upon. (The landlord must provide you with receipts for all rent payments made).
- ❖ To take good care of the property you are leasing.
- ❖ At the end of the lease, to return the property to the landlord in the same good order and condition it was in when you received it.

WHAT SHOULD I DO IF MY LANDLORD DOES NOT FULFIL HIS DUTIES?

- ❖ Do not simply leave the premises or tell the landlord that you are cancelling your lease there and then.
- ❖ Always try to deal with the issue in a friendly manner first. Talk to your landlord and ask him to fix the problem.
- ❖ If this does not work, then write a letter to your landlord setting out the problem, and giving him the opportunity to sort it out within a certain number of days. Send the letter to him by registered post. You can write this letter yourself, or ask for help at the Legal Aid Clinic.
- ❖ If this does not work, then it is important to seek legal help as soon as possible.
- ❖ Depending on the circumstances, you may be entitled to:
 - cancel the contract of lease
 - demand that the landlord make repairs
 - claim a reduction in your rent
 - sue your landlord for damages

Take Note:

No one may ever evict you without a court order. If your landlord applies for such an order, you will be given notice, and you should seek legal assistance immediately.

Please contact us if you require assistance:

Rhodes University Legal Aid Clinic

41 New Street

Grahamstown

Tel: 046 622 9301