



Basic legal requirements for landlords

By Michelle Dickens, Managing Director, TPN Credit Bureau

Property ownership is the aspiration of most South Africans. The land reform process is an aggressively debated topic as both buyer and seller appreciate the underlying value of property as wealth. Landlords are able to subsidise the cost of purchasing and maintaining their property asset by the rent collected from their tenant. But what obligations should the landlord adhere to lest he or she take the form of a slumlord?

Non-Statutory Law (Common Law)

- The landlord must make the property available to the tenant
- The landlord should not disturb the tenant from his enjoyment of the property.
- The landlord must place and maintain the property in a state fit for the purpose for which it was let, or otherwise agreed.
- The landlord must warrant the property is free from any defects.
- The landlord must pay the taxes.
- The landlord cannot evict a tenant with a better title.

The landlord may also enter into a written lease agreement with the tenant, which changes these common law obligations. For example the landlord and tenant can agree

that the tenant will pay the taxes on the property, or while the tenant is in occupation of the property he will maintain the property. If the lease agreement is silent on any such obligations then they remain the landlord's responsibility.

Statutory Law -The Rental Housing Act

- A lease can be verbal or in writing, but if the tenant requests the lease to be in writing the landlord must comply.
- The landlord must furnish the tenant with written receipts for all payments made by the tenant.
- The landlord must hold the deposit in an interest bearing account for the tenant (minimum of a savings rate with a bank). Note deposits held by estate agents are regulated differently by the Estate Agents Board.
- The tenant and landlord must have joint incoming and outgoing inspections to note any defects in the property. This does not require that the landlord must attend to every defect, unless the defect is material and prevents the tenant from full use of the property. For example, if the geyser does not supply hot water.

This is statutory law; the landlord cannot write clauses into the lease agreement that waive these obligations.

Essential information for landlords, property investors and letting agents

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