

Legal Alert February Rent Control (Amendment) Law

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Legal News: “Repeal” of 2003 & 2004 Rent Control & Recovery of Residential Premises Law

Our attention has been drawn to the “repeal” of the Rent Control and Recovery of Residential Premises Law. The recipient(s) who drew our attention to this development also raised the question of whether or not a debtor-tenant whose tenancy had expired by effluxion of time was entitled to receive service of any notice to quit. The Supreme Court decision in ODUTOLA v. PAPERSACK was referred to in this regard.

The Nigerian Supreme Court held in the matter of ODUTOLA v. PAPERSACK & ANOR (2006) 11 -12 S.C 60 @ 66 that a tenant at will – i.e. a tenant without a tenancy or with one with a tenancy that has

expired - occupies the estate of the landlord at the pleasure or happiness of the landlord. The tenant at will can however be ejected subject to proper notice to quit emanating from the landlord. It was further held that by Section 15 (1)(a) of the Rent Control and Recovery of Residential Premises Law of Lagos State Cap. 167, Laws of Lagos State, a tenancy at will or a weekly tenant is only entitled to a week's notice to quit.

The Supreme Court finally also held that mesne profit is the sum due to a landlord from the time his tenant ceases to hold the premises as a statutory tenant to the time such a tenant gives up possession. And that from the moment a tenancy comes to an end by effusion of time, the tenant thereupon becomes a tenant at will by continuing or remaining in possession of the property without the consent of the landlord.

Legal Alert: February, 2009 – Lagos State Rent Tribunals (Abolition and Transfer of Functions) Law, 2007

The Rent Tribunals (Abolition and Transfer of Functions) Law ("Rent Tribunals Abolition Law"), which is more commonly referred to as The Rent Control Law (With Amendment) 2007, was enacted to amend the Rent Control & Recovery of Residential Premises Law (the principal Law) by abolishing all Rent Tribunals in Lagos State, and transferring all their **functions, powers** and **jurisdiction** to Magistrates Courts or the appropriate High Courts.

The effect of the above abolition and transfer of the functions of Rent Tribunals in Lagos State is that the provisions of the Rent Control and Recovery of Residential Premises Law Cap. R6 2003, and the Rent Control and Recovery of Residential Premises (Amendment) Law, 2004 have been repealed by Section 5 of the 2007 Rent Tribunals Abolition Law.

Sections 1, 2, 3 and 4 of the Rent Tribunals Abolition Law, 2007 are the saving provisions for the Rent Control and Recovery of Residential Premises Law, 1997 which is now the applicable Law in the areas of rent control and the recovery of residential premises in Lagos State.

Section 1 of the Rent Tribunals Abolition Law 2007 is the section that has transferred all the powers, functions and jurisdiction formerly exercised by the Rent Tribunals to the appropriate Magistrates or High Courts in Lagos State.

Sections 2 and 3 of the Rent Tribunals Abolition Law are the sections transferring the employment of judicial officers under the Rent Tribunals regime to that of the appropriate grade of Magistrate in the Judicial Service Commission of Lagos State.

Section 4 of the Rent Tribunals Abolition Law authorises the continued hearing of part–heard matters by the Rent Tribunals provided that such matters are concluded within three months of the commencement of this Law. Part heard matters that are not concluded within three months are required to be transferred to the proper Magistrates or the High Courts for final determination.

Conclusion

It is not the intendment of the Rent Tribunals Abolition Law, 2007 to repeal the entire 1997 Rent Control & Recovery of Residential Premises Law of Lagos State.

It is therefore the current position of the Law that Rent Tribunals in Lagos State have been abolished. Their functions, powers and jurisdictions have been however been transferred to the appropriate Magistrates or High Courts in Lagos State for continuing adjudication. The applicable Law to rent control and recovery of residential premises matters in Lagos State remains the saved sections of the 1997 Rent Control and Recovery of Residential Premises Law.

Special mention must be made of the fact that the Rent Tribunals Abolition Law is not drafted as exhaustively as it should be, to remove the present confusion amongst practitioners and stakeholders as to what Law presently regulates rent control and recovery of residential premises in Lagos State. It is therefore expected that time wasting preliminary objections will be filed at the Courts on this area of the Law. The Lagos State House of Assembly would do well to effect further improvements on this legislation any time the opportunity presents itself in order to save time and cost to the Courts and the parties.

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