



NOTABLE CASE

REFERENCE NUMBER:	695/2023/NCF	DATE:	29 November 2023
MATTER HEARD BY:	NORTHERN CAPE RENTAL HOUSING TRIBUNAL		

1. NATURE OF DISPUTE

Failure to pay rental

2. PARTIES TO DISPUTE

P v S (Names redacted due to POPI Act.)

Both parties are private persons.

3. COMPLAINANT'S SUBMISSION

- Complainant (Landlord) submitted that the Respondent (tenant) vacated the premises without settling the outstanding arrears on the premises.
- She stated that she withheld the deposit, however, same is not enough to defray the arrears.
- She also stated that she does not agree with the set-off for necessary repairs that were allegedly made by the Respondent (Refer to Respondent's submissions).

Of key importance:

- Subsequent to lodging a dispute with the Rental Housing Tribunal, the Complainant proceeded to lodge a claim in the Small Claims Court and that same was also proceeding.
- This essentially meant that there were two same disputes pending before two forums at the same time.

Legal Question:

- Which of the two forums enjoy preferential jurisdiction, alternatively, does the RHT have jurisdiction to proceed.

4. RESPONDENT'S SUBMISSION

- The Respondent was absent and patently refused to attend the hearing.
- She submitted her version in writing, stating that she does not owe any rent as a result of having attended to necessary repairs that were the responsibility of the Complainant.

5. RULING OF THE RENTAL HOUSING TRIBUNAL

- The RHT had to deal with the preliminary issue surrounding jurisdiction before entering into the merits of the matter.
- The rationale for the decision was the risk that two different forums may arrive at conflicting decisions, alternatively, either of the two would lack jurisdiction.
- The RHT ruled that, in accordance with the court's decision in *Maphango and Others v Aengus Lifestyle Properties (Pty) Ltd*, the Complainant is directed to withdraw the matter from the Small Claims court before proceeding at the RHT.

6. REASON FOR THE DECISION

- In the *Maphango and Others v Aengus Lifestyle Properties (Pty) Ltd* matter, it was confirmed that, once seized with a matter relating to a rental dispute and where the matter falls within the jurisdiction of the RHT, the RHT enjoys exclusive jurisdiction on the matter.
- This is further bolstered by the fact that the Complainant testified that she lodged the dispute with the Small Claims Court subsequent to lodging same with the RHT.
- The decision was bolstered with the need to ensure certainty and to avoid a situation where conflicting rulings are obtained in either forum.