



## NOTABLE CASE

<b>REFERENCE NUMBER:</b>	220830-000019	<b>DATE:</b>	19 APRIL 2023
<b>MATTER HEARD BY:</b>	BY THE WESTERN CAPE RENTAL HOUSING TRIBUNAL		

### 1. NATURE OF DISPUTE

EXHORBITANT INCREASE IN RENT UNFAIR CHARGES

### 2. PARTIES TO DISPUTE

COMPLAINANT: TENANT  
RESPONDENT: LANDOWNER

### 3. COMPLAINANT'S SUBMISSION

- The Complainant submitted that the rent was originally R2 200 monthly in less than a year it was increased to R5764,00.
- In a period of about 6 months the rent was proposed to increase again to R7 550.
- The Complainant is an employee of the school, her income is between R10 500,00 per month, she also resides with her husband who is currently unemployed.
- She works for a special needs school and is the sole breadwinner.
- She argued that the escalation would consume 72% of her salary, the rental increase was unfair because it did not take her earnings into consideration. She also averred that the electricity charges are exorbitant because they are charged according to capita and not according to consumption of the electricity, at times they would pay more than R1500,00 for electricity per month.
- Their electricity consumption is quite conservative because they are only 2 people in the household and an elderly couple over the age of 55 years.

#### **4. RESPONDENT'S SUBMISSION**

- The Respondent submitted that an estate agency valued the rental to be between R9 500,00 and R10 000,00. The property was newly renovated, freshly painted with new kitchen cupboards and floor finishes.
- The landowner intended to implement market related rental and the tenant was also offered alternative accommodation, which was not accepted. The tenant was warned from the outset that the rent would be increased.
- The school is heavily reliant on the rental income from the flatlets to subsidise school fees and it is not able to subsidise accommodation for teachers.
- In this matter there was no exploitative increase of rent, as it was a new and different contract offered to the Complainant every time.
- The Complainant is an employee that provides for the special needs students in her daily employment and the income level is not considered.
- They confirmed that the electricity is charged per capita because the electricity is not separately metered however they mentioned that the new rental would be inclusive of all services.

#### **5. RULING OF THE RENTAL HOUSING TRIBUNAL**

- After considering all the facts and merits of the matter, the Tribunal found the rental increases exorbitant.
- The proposed rental increase from R5 764, 00 to R7 550,00 is declared an unfair rental increase.
- The Tribunal determined that the rental increase should be an amount of R 6 500,00 which will include all services provided by the Respondent.

#### **6. REASON FOR THE DECISION**

- The increase in rent for each contract went up significantly without proper evaluation of the accommodation type and facilities. The valuation was done by a single property practitioner that is not a registered valuer. The Tribunal is also concerned about the per capita apportionment of electricity charges.
- The actions of the Respondent constitute an unfair rental practice, the rental increase as well as the electricity charges are unfair.
- Section 13 of the Rental Housing Act provides inter alia that upon finding that an unfair practice exists, a tribunal may make any ruling that is just and fair to terminate any unfair practice.
- The Constitutional Court decision of Maphango and Others v Aengus Lifestyle Properties (Pty) Ltd 2012 (3) SA 531 (CC) confirmed that an unfair practice ruling may include a determination regarding the amount of rental payable by a tenant. It must be made in a manner that is just and equitable to both tenant and landlord.