

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

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OFFICE OF THE AREA COMMISSIONER
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S A POLICE SERVICE
WEST METROPOLE
CAPE TOWN
8000

2005-06-08

All Station Commissioners
All Commanders
All Zone Directors
All Area Heads
AREA WEST METROPOLE

LEGAL OPINION: RENTAL HOUSING TRIBUNAL

1. This office is receiving requests on an ongoing basis from stations regarding disputes that emanate between landlords and tenants of rental housing. In most of the instances the complainants demand police intervention in addressing their complaints. In almost all the instances the South African Police Service had no authority to provide assistance to a complainant, as the complaint arises out of the contractual relationship between landlord and tenant.
2. The Western Cape does have a tribunal that deals with complaints relating to rental housing, this tribunal is known as the Western Cape Rental Housing Tribunal. Attached herewith find a pamphlet issued by the latter tribunal with detail information regarding the objectives, the whom and the how in respect of rental housing.
3. It is recommended that copies of the attached pamphlet be made and that these pamphlets are available in the Community Service Centre for distribution to members of the public, should they have a complaint regarding rental housing.
4. The mere fact that the tenant or landlord is referred to the tribunal to deal with a dispute between landlord and tenant does not mean that all complaints do not need police attention. The following are complaints that still needs police attention.
5. In terms of section 8 of the Prevention of illegal eviction from unlawful occupation of land act, no. 19 of 1998 certain offences are created. The most important offence is created by section 8(1) of the act which stipulates as follows:

"No person may evict an unlawful occupier except on the authority of an order of a competent court".

6. In practise it means that no person may evict an occupier without a court order. This includes an occupier who is renting the property from the owner and who is in arrears with rental payments.
7. Should any person complain of being evicted without a court order, members of the S A Police Service should attend to the complaint and if they find that the person is in the process of being evicted without a court order, they should open a case docket. They may also arrest the person attempting to evict the occupier, should he or she persist with the eviction after being informed that it is a criminal offence.
8. The offence should be registered as follows; C/O sec 8(1) PIE Act, No. 19 of 1998 eviction without a court order.
9. Certain complaints relating to trespass in terms of section 1 of the Trespass Act 6 of 1959 also needs attention. In cases where the complaint of trespass emanates from a lease agreement, the case must be registered, it is recommended that no arrest be made until after the case was discussed with the Senior Public Prosecutor.
10. Kindly inform all members under your command.

SR SUPT

AREA HEAD: LEGAL SERVICES: WEST METROPOLE
M CLOETE