

Eviction for Non-Payment of Rent in Cyprus – Amendment



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Publication Sheet – March 2020 #1



Introduction

The law on property rental in Cyprus appears to have been unfairly weighted in favour of tenants for some time. The view of landlords renting out residential or commercial properties to which the Rent (Control) Law applied was that the law forced them to tolerate tenants who did not pay their due rent. The reasoning behind this view was that defaulting tenants were legally entitled to remain in the property without paying their legally due rent until the hearing of an application for recovery of possession before the Rent Control Court. This was despite the fact that there were often long delays between an application being submitted and a hearing taking place.

In order to speed up procedures for eviction of tenants for purely reasons of non – payment of rent, the Parliament has recently passed a law amending the Rent Control Law of 1983 (hereinafter referred to as the "Law") which came into effect on the 31 January 2020.

The position under the amended law

According to the amendments made to the Law, the situation now is that **when a tenant fails to pay his rent** due Section 11(1)(a) of the Law allows the landlord to proceed with measures to obtain the rent due as well as an order for eviction provided that the following steps have been taken:

- The landlord must send to the tenant a 21-days' notice, requesting payment of the amount due.
- On the tenant's failure to pay such amount after the 21 days have expired, the landlord has the right to proceed with Court measures requesting eviction and payment of the rent due.
- The court application must be served to the tenant by ways specified in section 29 of the amended law and which include service that can be carried out electronically.
- The tenant will then have a right to defend the application for eviction within 14 days of service **provided that** together with his reply – defence, proof of payment of the rent due (as specified in section 11 (a)(ii) of the Law) is also be provided to the Court Registrar. If such proof of payment is not provided to the Court Registrar, then the Court Registrar will not accept a reply - defence to be filed on behalf of the tenant.
- Additionally, even in cases that the proof of payment is provided with the reply – defence the Court Registrar still has the discretion as to whether or not it will accept or deny such reply - defence. Such decision of the Court Registrar must be presented before the Court within 3 days in order to be examined whilst, the final decision of the Court will not be subject to appeal.



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- In the event that an eviction order is issued by the Court, the Court will have the power to set out the time frame which the tenant will need to comply with. Such time – frame shall not be less than 90 days.

The main effects of the amendment

Up until recently, the tenant had the right to reply and in effect defend the application for eviction without the need to provide any proof of payment of the rent. This meant that the burden of proof relating to the non – payment of the rent was borne by the Landlord. Thus, it was for the Landlord to prove that the tenant's failure to pay the rent. This allowed the tenants to allege that the rent was paid even if such allegation was untrue and fabricated and thus, creating a matter to be heard by the Court and significantly delaying the procedure for eviction.

In essence, the amendments made to the Law, now shift the burden of proof to the Tenant to prove that he has complied with his contractual obligations and has paid the rent since as explained above, the tenant is not allowed to file a reply - defence unless payment of the rent has been proven. This shift of the burden of proof, tackles the issue of delay in hearing applications for eviction and speeds up the process. It also removes the protection that was granted to tenants who used the provisions of the law in bad faith and in order to gain a benefit to the detriment of the landlord's rights.

That being said, it should be borne in mind that the amendments of the Law do not completely or automatically remove any human involvement. The purpose of the amendments was to ensure that court procedures would be faster and that tenants acting in bad faith, did not abuse the law.

Conclusion

The landlord will now have the ability to proceed with the eviction on a more effective basis as procedures are faster since the law, will now oblige a tenant to prove that his rent has been settled prior to filing his reply - defence. This will remove any possibility of the tenant abusing the Court's process.

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