



Court procedure for evicting defaulting tenants amended



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17 March 2020 | Contributed by Elias Neocleous & Co LLC

Litigation, Cyprus

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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. However, the recent amendment of the Rent (Control) Law seeks to resolve the problem of landlords who have had to deal with such tenants.

Rent (Control) Law

Pursuant to the Rent (Control) Law, where a tenant fails to pay legally due rent to their landlord, an application for recovery of possession can be filed before the Rent Control Court 21 days from the date on which the rent is payable. The Rent Control Court can then issue an eviction order. An exception to this rule is where a tenant pays rent due to their landlord within 14 days of the service of said application. **(1)** Before the amendment of the Rent (Control) Law, such orders were usually issued at the time of the hearing of such an application. However, landlords might have had to wait three to four years for such an application to be heard. During that time, unpaid due rents would accumulate and there was no guarantee that when such an order was issued the tenant would be able to pay all of the rent that had become due to the landlord.

In addition, in response to such an application (which must be filed within 14 days of the

service of said application), tenants would usually allege that they had paid the rent due to the landlord. This was despite the fact that they had not done so and could offer no proof of payment. This commonly used tactic would result in a hearing of the landlord's application before the Rent Control Court, even if there was no substantial evidence for the tenant's claim, which was time consuming and prevented the landlord from immediately recovering possession of their property.

Amendments

On 31 January 2020 the Rent (Control) (Amended) Law 2020 entered into force. Pursuant to Article 11(1)(a)(ii) of the law, a tenant's reply to an application for recovery of possession will be admissible to the secretariat of the Rent Control Court only if accompanied either by:

- proof from the accounting department of the court that the rent due mentioned in the application had been deposited together with the filing;
- a rent collection receipt issued by the landlord or their agent; or
- proof of deposition, issued by a financial institution, for the benefit of the landlord or their agent.

The secretariat's decision in relation to the filing of the reply must be submitted to the court within three working days for final approval or rejection. The court's judgment is not subject to appeal.

Consequently, a tenant against whom an application for recovery of possession is being filed and who claims in their reply to have paid the rent due must now file relevant evidence to the secretariat of the court as proof. Only under these circumstances will the filing of a tenant's reply be accepted by the secretariat of the court.

If a tenant's reply is accepted, they have the right to defend themselves; however, if their reply is rejected, the eviction process begins.

Pursuant to Article 11(1)(a)(iii) of the law, where an eviction order is issued, the court can determine the time of compliance with the eviction order. This cannot be less than 90 days.

Consequently, the shortest period in which the court may order the eviction of such a tenant is effectively three months.

Article 29(1) of the law, which deals with the service of various notices (including the aforementioned application for recovery of possession), now provides that private services may be effected in any manner provided by the Civil Procedure Rules. This includes electronic and substitute services following a court order, which were not provided for previously.

In addition, as regards service out of jurisdiction, this may now be done in any way provided for under EU regulations, international conventions, secondary legislation or procedural regulation which is in force in Cyprus.

Comment

It is now clear that property rental legislation has been modernised and is perhaps more socially equitable for landlords as it aims to help them recover possession of their properties more rapidly when tenants fail to honour their side of a rental contract.

The amendments to the Rent (Control) Law are directed specifically at resolving the problems encountered by landlords engaged in the recovery of their property due to the non-payment of legally due rent. The changes are an attempt to resolve a situation in which the filing of applications for repossession had become a time-consuming and costly exercise for landlords.

Notably, the provisions of the amending law do not apply to applications that were filed with the courts before the date on which the legislation entered in force; nor do they apply to rents that were payable before that date, provided that they are paid within 12 months from that date.

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Endnotes

(1) This procedure remains the same even after the amendment.

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