



ALAN LEVY

ATTORNEYS & CONVEYANCERS

THE MYTH ABOUT URGENT EVICTIONS

The recalcitrant tenant is a nightmare all too familiar in South Africa. The nightmare revolves around the perception that it is almost impossible to remove a defaulting tenant, with the result that months and months of potential rental income are lost.

This is a complete myth, in addition to numerous alternative methods that can be used in order to get a defaulting tenant to comply, the option of eviction is very definitive in South African Law. The procedure is clearly detailed and usually takes between 6-12 weeks from the time the application is first served upon the tenant until the date when the tenant is told by the relevant Judge or Magistrate to vacate the property. Thereafter the Landlord can still recover its arrear rental and amenities.

In addition there does exist an allowance in South African law an option for an urgent eviction. The urgent eviction is so powerful, that it allows for the recalcitrant tenant or the unlawful occupier to be ordered by the court to vacate the property within 24 hours, failing which the sheriff of the court is authorised to forcefully evict the unlawful occupier from the property.

What separates the 24 Hour Eviction from other eviction applications, is that it requires that the Applicant show that there is damage being suffered and that the eviction is urgent. It is important to note that the damage suffered need not be to the applicant or the property but can be suffered by anyone or anything for the application to succeed.

The application is initially brought ex parte and is confirmed by the court on a later date. Importantly even if the 24 hour eviction order is not confirmed, the applicant bears no duty to restore the evicted party to the property.

Importantly the application can be brought in both the High and Magistrates Court, so it can be brought for a relatively low cost.

These applications are complicated and it is highly recommended that a competent attorney be consulted. For further details about urgent evictions contact Mark Millner of Alan Levy Attorneys.

Alan Levy Attorneys & Conveyancers

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