
Badly behaved tenants in sectional title – Courtesy Property 24

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Sectional title landlords carry full responsibility for their tenant's conduct and are liable for any fines imposed on them.



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Ulrik Strandvik, a Gunstons Attorneys director warns that investors in buy-to-let property should be aware of the dangers before they take the plunge.

He says a particularly serious situation can arise if the investor buys into a sectional title scheme then places a tenant in his unit, only to find in time that the tenant's behaviour is unacceptable to his fellow members and the trustees of the body corporate.

If, after a warning the tenant continues to upset his neighbours, the body corporate may be entitled to impose a fine, and this can be onerous, often over R1 000, says Strandvik.

He adds that the snag is that this fine is payable by the owner. "What is more, the interest on it, if not paid, can be charged at compound rates – and the legal fees, if an attorney is hired, are also for the owner's account."

Attempts to ignore these fines, says Strandvik, will simply result in the amount owed growing month by month and, if the fine is related to putting certain matters right, e.g. fixing broken windows or doors and this is not attended to, the trustees are entitled to impose a further fine.

In this situation, Strandvik says a good rental agent if the landlord has one, will immediately inform the owner of the problem and arrange in some way to get the fine paid before it is added to.

He says this may involve the owner having to pay out of his own pocket. He can in his own time then take legal steps to recover the amount paid from the tenant – and he can, if the worst comes to the worst, deduct the sum owing from the tenant's deposit, when his lease expires – but this will reduce the amount claimable for damages at the end of the lease.

An additional danger is that the rental agent may try to hide the facts from his landlord, in the hope that he can put matters right, says Strandvik. However, he adds that experience shows that the type of tenant who incurs these penalties is also the type who ignores debt claims and is constantly in financial hot water. "It is probable, therefore, that the landlord and his attorneys will be unable to extract cash from the tenant."

Strandvik says one of the lessons to be learned from all this is that credit, employment and character checking of tenants has to be intensely meticulous these days.

Rental agents will all too often not be as thorough in this process as they should be because they are under pressure from their landlord and their seniors to fill the premises, he says.

"We have known cases where a previous landlord testified that the tenant was reliable when this was not the case – he simply wanted to get rid of him."

Had the agent checked with two or more previous landlords he would have discovered this, says Strandvik.