

**SECTION 26-THE LANDLORD AND TENANT
(BUSINESS PREMISES) RULES**
Rules by the Chief Justice

*Statutory
Instrument
31 of 1973
Act No.
13 of 1994*

1. These Rules may be cited as the Landlord and Tenant (Business Premises) Rules.

Title

2. In these Rules, unless the context otherwise requires-

Cap. 193

"the Act" means the Landlord and Tenant (Business Premises) Act,

"Registrar" means the Registrar of the High Court, and includes a Deputy Registrar and a District Registrar.

3. An application made to the court under the Act shall be commenced by an originating notice of motion. Evidence in support thereof may be on affidavit or, where an affidavit is not required by these Rules, *viva voce*.

Commencement of proceedings

4. (1) Any originating notice of motion by which an application is made under the Act shall be issued out of the court, or the principal or district registry of the court, for the province or district, as the case may be, in which the premises to which the application relates are situated.

Issue of originating notice of motion

(2) Unless the court gives leave to the contrary, there must be at least fourteen clear days between service of the notice of motion and the day named in the notice for hearing the motion. Leave to serve short notice of motion may be obtained on *ex parte* application to the court.

(3) The person who in relation to the relevant current tenancy is the landlord or the tenant, as the case may be, shall be made the respondent to the notice of motion.

5. (1) The originating notice of motion by which an application under section *four* of the Act for a new tenancy is made must state-

Application for new tenancy under section 4 of the Act

(a) the premises to which the application relates and the business carried on there;

(b) particulars of the applicant's current tenancy of the premises and of every notice or request given or made in respect of that tenancy under section *five* or *six* of the Act; and

(c) the applicant's proposals as to the terms of the new tenancy applied for including, in particular, terms as to the duration thereof and as to the rent payable thereunder.

6. (1) On issuing the originating notice of motion by which an application under section *four* of the Act for a new tenancy is made the applicant must file an affidavit verifying the statements of fact made in the notice of motion.

Evidence on application under section 4 of the Act

(2) Not less than four days before the day fixed for the first hearing of the notice of motion the respondent must file an affidavit stating-

(a) whether he opposes the grant of a new tenancy and if he does, on what ground;

(b) whether, if a new tenancy is granted, he objects to any of the applicant's proposals as to the terms thereof and, if he does, the terms to which he objects and the terms he proposes in so far as they differ from the terms proposed by the applicant.

7. If on the day fixed for the hearing of an application to the High Court under section *four* of the Act the Registrar is satisfied that-

Consent Order by Registrar

(a) the parties to the application have agreed on the subject, period and terms of the new tenancy;

(b) the owner of any reversionary interest in the property consents thereto; and

(c) there are no other persons with interests in the property who are likely to be affected,

the Registrar shall have power to make an order giving effect to the agreement.

8. An application by a landlord under section *seven* of the Act to the

Application under

court to determine the rent which it would be reasonable for the tenant to pay while the tenancy continues by virtue of section *four* of the Act shall be supported by affidavit. section 7 of the Act

9. Where the court hearing an application under section *four* of the Act is precluded by section *twelve* of the Act from making the order for a grant of a new tenancy by reason of any of the grounds specified in subsection (1) of section *eleven* of the Act, the order dismissing the application shall state all the grounds by reason of which the court is so precluded. Order of dismissal of application under section 4 which is successfully opposed

10. An application by a tenant to the court for an order under paragraph (b) of subsection (2) of section *twelve* of the Act shall be made *ex parte* in chambers. Application under section 12 (2) (b) of the Act

11. An application by a tenant under subsection (4) of section *ten* of the Act to the court to extend the period specified under subsection (3) of that section shall be made *ex parte* in chambers. Application for extension of time under section 10 (4) of the Act

12. Notwithstanding sub-rule (2) of rule 4 of these Rules, in the case of an application by a tenant under section *eighteen* of the Act to the court for revocation of an order for the grant of a new tenancy, there must be at least four clear days between service of the notice of motion and the day named in the notice for hearing the motion. Application under section 18 of the Act

13. An application by a tenant under section *twenty-eight* of the Act to the court for determination of rent shall be supported by affidavit. Application under section 28 of the Act

14. Upon any application under the Act to the court there shall be paid in respect of the filing of such application a fee of fifty fee units where the application is made to the High Court and fifty fee units where the application is made to a Subordinate Court. Fees

(As amended by Act No. 13 of 1994)

15. (1) Where a tenant elects to pay to the court rent due to his landlord such payment shall be made at the time and in the amount such rent was due to be paid to the landlord. Notice in writing of the election to make such payment, specifying the cause of action in respect of which Payment of rent into court

payment is made, shall be lodged in court with the first payment into court. A copy of such notice shall be served upon the landlord.

(2) A landlord may claim rent paid to the court by his tenant either personally or by agent with authority in writing signed by the landlord, or where the landlord is a corporation, signed by the secretary or a principal officer of the corporation.

(3) Rent paid into court under the Act may be claimed by the landlord within one year of the date of payment into court. Rent unclaimed within the aforesaid period of one year shall be disposed of in pursuance of an order of the court or a Judge, and such order shall direct that such rent be paid into the general revenues of the Republic.

(4) A court may deduct $2\frac{1}{2}$ per centum commission on rent paid into court by a tenant.