

Quit 101

After the festivities of the yuletide, you are trying to balance your precarious accounts and there it is among the Christmas cards – a QUIT NOTICE!

If you have a positive disposition and have a tendency to look for the silver lining in dark clouds then you will probably be grateful that the Notice did not come in during the celebrations because it would no doubt have cast a gloom over the celebrations, and to imagine that the yamhead of a landlord had actually eaten your fried rice and drank your malt meanwhile he had this up the sleeves of his ill-fitting buba.

But then it is not as bad as you think, after all like the Americans would say “it ain’t over till it’s over” so together let us make the rest of your stay in the premises memorable.

The first thing to note is that the procedure for recovery of premises is highly technical and a strict compliance with the provisions and rules is essential if the whole proceeding is not to result in nullity.

Nobody on this side of eternity is perfect so chances are that in his haste to evict you, your landlord made a couple of errors. Let us start by looking at the most likely ones but if after going through the entire gamut the man comes out clean then my advice to you would be to start looking for another accommodation although I must confess that the worst time to be searching for a flat is when you are flat broke (pun intended).

The law regulating landlord and tenant matters – the Recovery of Premises Law – is a wonderful document, no doubt the draftsmen at the Ministry of Justice are tenants moreso the shylock tendencies of landlords is a notorious fact so the law is on your side and that is a good starting point.

The most common error in quit notices is that the Notice doesn’t elapse on the anniversary of the tenancy (if you don’t understand this, definitely it would fry circuits in the brain of Chief Koko at Oluwalambe Lodge).

Essentially it means that if your tenancy commenced on the 15th of July 2000 (i.e. the date stated in your receipt as the starting date) then a quit notice in order to be valid has to expire on the 14th of any given month if the tenancy is a monthly tenancy. If on the other hand it is a yearly tenancy then the quit notice has to expire on the 14th of July in any given year.

A violation of this rule makes the quit notice void and another one has to be issued, if it is a monthly tenancy then you have respite for a couple of months but if it’s a yearly tenancy – bingo! The man would have to get used to seeing your face for another one year.

The tenancy agreement is what determines the type of tenancy you have and it ought to be stated therein whether it is a weekly, monthly or yearly tenancy. If there is no tenancy agreement then the mode of payment of rent is what would determine the type of tenancy you have, and knowing the average landlord he would have collected a two year advance from you and insists on your making a yearly

payment so the law would rule that your tenancy is a yearly tenancy and a six month notice is required.

This write up is for tenants so do not let your landlord see it because if you are a recalcitrant tenant and you owe rent, there might be a little problem – because tucked away from the view of most persons, in one of the sections of the Recovery of Premises Law, is a provision which states that if a tenant owes over 3 months rent then the landlord can give him a one week notice because he has become a tenant at will, a nuisance more or less (!).

Fortunately or unfortunately there is no similar provision for yearly tenancies, a similar section ought to be included in the Law providing that a yearly tenant who is in arrears of rent for over six months also becomes a tenant at will and a one week notice would suffice.

If the quit notice is valid there might be some respite in the 7 day notice i.e. the notice of owner's intention to recover possession. It is imperative that at least 7 days must elapse between the service of the 7-day notice and the date stated in the notice as the date the owner (landlord) will apply for recovery of premises.

After the expiration of the 7-day notice, the landlord or his lawyer would issue a writ in which you would be ordered to appear in court on a specified date.

This is not the time to be stingy so please go out and engage the services of a lawyer. This is a very technical area of the law so you cannot properly represent yourself, even if you are a lawyer you should realise the fact that you are personally involved so there is the tendency that personal sentiments may cloud your professional judgment, so please sir allow your colleagues to get a few coins from those your juicy retainerships (according to Etienne T-Boy "Oga, chop I chop. Why you too dey like to chop alone?").

When you appear in court please dress simply, do not for any reason whatsoever wear coupion lace and your entire white gold collection especially if you are in arrears of rent! You will only succeed in losing the "sympathy" of the tribunal/court.

Also if due to reasons beyond your control you cannot appear yourself on any date please get a responsible person to appear on your behalf, and I don't mean that your cousin with red eyes and dreadlocks or your younger sister whose dressing renders the imagination of virile men redundant.

Note that the court/tribunal should be addressed respectfully at all times; they are the only reason why you have not already been thrown out on the streets.

You will be asked whether you are ready to deliver up possession of the premises or are contesting possession. If you say you are ready to deliver up possession, you will be given time to do this and God help you if on that date you are still in the premises, also you can stop reading this article **NOW**.

If you are going to contest possession, then read on:

Apart from inadequacy in the length of notice, an early blow to your landlord would be for your lawyer to ask for the letter from the landlord authorising his solicitor to issue the quit notice. If this letter was not written before the notice was issued, then like a game of snakes and ladders they slide back to square one.

Next is the issue of service of the notices, they are to be served between the hours of 6a.m and 6p.m (daylight hours) so if you are being served at night when signing the acknowledgement copy please state the time therein it might make a difference in your case.

You can make yourself scarce during these hours, refuse to open the door or give specific orders to your housemates not to accept any documents but the landlord can simply obtain an order of substituted service and paste it on your door so the effectiveness of this option is limited.

In the course of the trial a lot of documents will be pleaded, the effect of no tenancy agreement on the mode of rent payment has already been outlined above.

We cannot now start going through the whole hog of procedure involved in a tenancy matter (isn't experience the best teacher?) but eventually the case would come to an end despite NLC strikes, indisposition of witnesses and the myriad reasons why adjournments would be sought for.

Either of two things will happen, you will either be asked to vacate the premises or the quit notice would be declared invalid for whatever reason.

If you have been asked to vacate you would be given time to leave, and leave you must.

If you have been allowed to stay further I would advise that you immediately start looking for alternative accommodation because the Yoruba have a saying that when two people go to court they do not return with the relationship intact, so rather than spend Friday nights in vigil asking God to render his juju and cowries shells ineffective, please pray for a breakthrough so you can also become a landlord!

Godwin Tom-Lawyer ©