

What the rise of short-term rentals means for landlords and tenants

As the short-term rental market begins to pick up, landlords and tenants alike must take steps to protect themselves while the effects of Covid-19 and an unstable economy continue to disrupt the industry.



Grant Smee

Even in the best of times it can be a difficult task to secure reliable tenants, but the pandemic has added an extra layer of complexity into the mix. Financial instability, job losses and impacted credit scores make finding dependable monthly rental payments and finding stable tenants increasingly difficult.

Recent stats from the Tenant Profile Network (TPN) paint an even darker picture of the rental landscape. TPN's stats indicate that 60.74% of tenants paid their rent on time this quarter, while 9% of all tenants are not paying rent at all.

Grant Smee, property investor, entrepreneur and managing director of Only Realty, explains, "This shift gives rise to a situation in which tenants hold more power than before and has led to an increase in short-term rental agreements being signed."

Landlords upping the ante

Long-term rentals provide financial security for landlords and, in the past, agreements were generally set up to protect the interests of both parties equally.

However, today, tenants may have more say in compromises when it comes to issues such as deposit payments too. “In a market with excess rental stock, landlords may be more amenable to reduced deposits and short-term rentals in order to stand out from the crowd,” says Smee. “Landlords looking to take advantage of the demand for the short-term letting market need to ensure their property provides excellent value and a unique offering. Here factors such as location, price, quality and overall experience can ensure that they stand out from other competing units.

“The additional effort required to set their property apart from the competition has added tremendous pressure to owners.”



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Factors at play

Smee describes current factors which have significant impact on the market as follows:

Challenges for landlords

“Landlords were largely unprepared for tenants being unable to pay during lockdown, leaving many of them without access to an open line of credit. Very few landlords have rent default insurance and payment holidays are now up,” says Smee.

Unemployment among tenants

The local unemployment rate is sitting at an all-time high of 30%, largely owing to Covid-19. “Around 55% of the country is made up of tenants, and large swathes of this demographic are now without jobs or have experienced a drastic reduction in income, leaving them suddenly unable to afford rent.”

Who holds the power?

While tenants are certainly more able to demand compromise, and landlords are beholden to new pressures such as short-term rental agreements, it's unlikely that tenants will be able to ‘strong-arm’ landlords into drastically one-sided agreements.

“The Rental Housing Act 50 of 1999, the first legislation for all South African tenants and landlords, was intended to balance the contractual rights and obligations of both parties. Both tenants and landlords are required to follow the due legal processes to enforce their rights in the event of a breach, as with any other contract,” explains Smee.

Landlords are still considered to hold the majority of the negotiating power, and retain the ability to write terms and conditions into leases which are favourable to them. “On the other hand,” notes Smee, “landlords feeling the pressure to retain good tenants or adjust to the difficult current market may see fit to compromise and offer lower deposits and short-term rental agreements in order to remain competitive.”

The rights of both landlords and tenants are protected by law, however legal battles can be costly and complicated, especially given the special circumstances brought about by the pandemic. While tenants can, to a degree, rely on the Consumer Protection Act 68 of 2008 for protection, they are still bound to the agreements drawn up by their landlords. Conversely, while landlords have traditionally held more negotiating power, many cannot afford the legal costs of eviction, especially during these trying financial times.

Solutions

“This unique and trying situation requires agreeing on a middle ground, where both parties consider the other’s circumstances. Compromises should be made by both tenants and landlords, such as tenants paying an available rent, and landlords being more flexible by offering short-term rentals, deposit utilisation or rental deferment,” suggests Smee.

Landlords are advised to use their judgement and approach each situation on a case-by-case basis. “Flexible measures should be extended to tenants who have demonstrated good faith and paid rent on time during normal circumstances,” says Smee.

According to TPN, other options available to help landlords and tenants through the effects of the pandemic include:

- **The Rent Deferral Agreement (RDA)** - this agreement allows landlords to confirm an agreement for the payment of unpaid rent at a future date.
- **The Income Declaration Agreement (IDA)** - this allows tenants to declare to their landlords that their income has been reduced as a result of the pandemic, either completely or in part, due to dismissal, temporary unpaid leave, or because of reduced working hours.
- **The Caution Use Agreement (CUA)** - this agreement allows the tenant to authorise or decline the use of their deposit to replace the rent they can’t afford to pay by committing to the payment of this deposit at a later date.

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