
WEST BENGAL PREMISES TENANCY RULES, 1999

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WEST BENGAL PREMISES TENANCY RULES, 1999

In exercise of the power conferred by sub-section (1), read with sub-section (2), of section 47 of the West Bengal Premises Tenancy Act, 1997 (West Bengal Act XXXVII of 1997), the Governor is pleased hereby to make the following rules

1. Short title :-

These rules may be called the West Bengal Premises Tenancy Rules, 1999 .

2. Definitions :-

In these rules, unless the context otherwise requires, -

- (a) the expression "the Act means the West Bengal Premises Tenancy Act, 1997 (West Bengal Act XXXVII of 1997);
- (b) "Form" means a form appended to these rules;
- (c) "section" means a section of the Act;
- (d) words and expressions used in these rules and not defined shall have the meanings respectively assigned to them in the Act.

3. Form of receipt for rent and charges relating to maintenance of premises :-

The receipt referred to in sub-section (1) of section 4 shall be in Form 1.

4. Period within which rent is payable :-

Rent shall be paid within the time fixed by contract or, in the absence of such contract, by the fifteenth day of the month following the month for which it is payable :

Provided that a tenant may pay the rent payable for any month at any time during such month before it falls due.

5. Manner of making application for eviction of tenant :-

An application under sub-section (1) of section 6 for the recovery of possession of any premises shall be made in writing to the Controller by the landlord stating fully the grounds on which the recovery of possession of the premises is sought. Every such application shall contain the following particulars :-

- (I) particulars of the premises with description thereof sufficient for identifying the premises (for example, number of the
- (II) name of the tenant;
- (III) rent payable by the tenant;
- (IV) date of creation of the tenancy; and
- (v) any other relevant information.

6. Execution of order passed by the Controller as referred to in section 9 :-

An order passed by the Controller shall be executable by the Controller as a decree of a Civil Court and, for this purpose, the Controller shall have all the powers of a Civil Court.

7. Manner of obtaining permission of the Controller for reletting premises under section 10 :-

(1) A landlord who desires to obtain the permission of the Controller under section 10 for reletting any premises within six months of the date of his occupation of the premises to any person other than the previous tenant, shall make an application in writing to the Controller stating fully the reasons for reletting the premises and also furnish such other evidence in support of his prayer as the Controller may require.

(2) On receipt of the application under sub-rule (1), the Controller shall cause a notice together with a copy of the application to be served on the previous tenant by registered post with acknowledgment due, requiring such tenant to appear before him and to file objections, if any, on such date and at such time as may be specified in the notice, or, if the address of the previous tenant be not known, the Controller shall publish the notice in any local newspaper and affix a copy of the notice in the premises in question and another copy in a conspicuous place in the office of the Controller. The cost of transmission by post and the cost of publication of such notice shall be borne by the applicant landlord.

8. Manner of making applications under section 17 for fixation of fair rent :-

An application under section 17 for fixation of fair rent shall be made in writing to the Controller stating fully the facts of the case and the provisions under which fixation of fair rent is claimed. Every such application shall be accompanied by as many true copies thereof as there are parties on whom notices are to be served along with the process-fees as provided in these rules for service of such notices. The applications shall be signed and verified in the manner provided in sub-rules (2) and (3) of rule 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

9. Deposit of rent :-

(1) Where the landlord does not accept any rent tendered by the tenant within the period specified in rule 4, the tenant shall remit the rent to the landlord by postal money order within fifteen days of such refusal. If the postal money order is returned to the tenant by the postal authority as undelivered, either on account of the landlord having refused to accept the payment thereof or for any other reasons, the tenant himself or by any person on his behalf may deposit such rent in the office of the Controller within fifteen days from the date on which it is so returned to the tenant.

(2) Where there is a bona fide doubt as to the person or persons to whom rent is payable, the tenant himself or any person on his behalf may deposit such rent in the office of the Controller.

(3) In Calcutta, the deposit of rent may also be made, if the amount does not exceed rupees 100, in the Calcutta Collectorate, and, in other cases, in the Reserve Bank of India, Calcutta. In the case where the amount is deposited in a Treasury linked agency bank or in the Treasury of the Calcutta Collectorate or in the Reserve Bank of India, the Officer-in-Charge of the Treasury of the Calcutta Collectorate or the Reserve Bank of India, Calcutta, or the Treasury linked agency bank, as the case may be, shall forward forthwith one copy of the challan to the Controller and retain one copy for its record. The third copy of the challan shall be made over to the party depositing the amount.

(4) The application referred to in sub-section (4) of section 21 shall be filed in Form 2 and shall be signed and verified in the manner provided in sub-rules (2) and (3) of rule 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), by the tenant or the person, as aforesaid, and shall be accompanied by challans prepared in triplicate in Form 3. Every such application shall be accompanied by as many true copies thereof as there are landlords or persons claiming the rent along with the process fees as provided in these rules for sending such copy or copies to the landlords or such persons by registered post with acknowledgment due.

(5) Landlordwise/tenantwise register shall be maintained in the office of the Controller in respect of deposit of rent by each tenant.

10. Copy of application for deposit to be sent to the person to whom rent was last paid and to certain other persons :-

On receipt of deposit, the Controller shall cause a copy or copies of the application for deposit to be sent by registered post with acknowledgment due to the person to whom the rent was last paid as also to the person or persons mentioned in the application.

11. Manner of the withdrawal of deposit of rent :-

(1) The application for withdrawal of rent deposited under section 21 shall be filed in Form 4 by the landlord or by the person claiming to be entitled to the rent, either personally or through an agent duly authorised by a power of attorney registered under the provisions of the Registration Act, 1908 (16 of 1908), or through a legal practitioner. Where the application for withdrawal of rent is filed personally by the landlord or by the person claiming to be entitled to the rent or by a duly authorised agent as aforesaid, such landlord or person claiming to be entitled to the rent or duly authorised agent, as the case may be, shall get himself identified before the Controller by a legal practitioner.

(2) The name and address of the legal practitioner through whom an application for withdrawal of rent is filed or who identifies the landlord, the person claiming to be entitled to rent, or the duly authorised agent as aforesaid, as the case may be, shall be entered in the registers maintained in the office of the Controller. Such legal practitioner shall, if required by the Controller, produce his licence along with his specimen signature attested by the Secretary or the President of the Bar Association of which he is a member under the office seal, before him and, in such cases, the particulars of the licence and the name of the authority granting the same shall also be entered in the said registers.

(3) Payment of rent made to the applicant under the order of the Controller shall be made in the manner provided in Form 4.

(4) Before passing an order for payment of deposited rent to the applicant, the original entry in the cash book and in the register of challans for deposits shall be traced and necessary entry with reference to the payment voucher shall be made against the original entry in both the cash book and the register for challans so as to avoid entertainment of double or erroneous payment.

12. Check It :-

Manner of giving notices relating to subtenancies under section 26.
- Notices of creation and termination of subtenancies under sub-

section (1) of section 26, and where, before the commencement of the Act, a tenant has sublet any premises, notices of such subletting and the termination of such subtenancies under subsection (2) of that section shall be given by the tenant and the subtenant to the landlord by registered post with acknowledgment due and shall contain the following particulars :-

- (a) location of the premises let to the tenant with description thereof sufficient for identifying the same (for example, number of the premises and description thereof, if there is any, name of the street, postal zone, and police station);
- (b) name of the tenant;
- (c) name of the subtenant;
- (d) details of the portion sublet;
- (e) rent payable by the subtenant;
- (f) date of creation/termination of the subtenancy; and
- (g) any other relevant information.

13. Manner of payment of fine or sum ordered to be paid under the Act, referred to in Chapter VIII of the Act. :-

(1) The Controller shall issue a notice of demand to the person on whom a fine is imposed or who has been ordered to pay any sum under the Act. The amount shall be paid by the person fined or ordered to pay the same within such time as may be allowed by the Controller and the Controller may, for good and sufficient reason, extend the time allowed by him. In default of making such payment, the amount shall be recoverable as a fine under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), and the Controller shall be deemed to be a Judicial Magistrate under the said Code for the purpose of such recovery.

(2) The fine or the sum, as the case may be, ordered to be paid under the Act, shall be paid by such person in cash in the office of the Controller and the same shall be deposited with the Controller as civil deposit.

14. Manner of service of notices by the Controller :-

All notices to be served under the Act by the Controller shall be served by registered post with acknowledgment due or, where this cannot be effected or is not feasible, in such manner as the Controller may deem fit in the circumstances of the case.

15. Manner of service of notice by the tenant under section 36 :-

Any notice to be served under sub-section (1) of section 36 by the tenant shall be served by registered post with acknowledgment due or, where this cannot be effected or is not feasible, in such manner as the tenant may deem fit in the circumstances of the case.

16. Grant of temporary injunction as referred to in sub-section(6) of section 39 :-

The Controller may grant temporary injunction in cases which come within the purview of rule 1 and rule 2 of Order XXXIX of the Code of Civil Procedure, 1908 (5 of 1908), and, in such cases, the principles laid down in subsequent rules of Order 39 of the said Code shall apply mutatis mutandis.

17. Procedure for enquiries :-

In making enquiries under the Act, the Controller or the Tribunal shall follow, as nearly as may be, the procedure laid down. (a) in the case of enquiries relating to offences, in the Code of Criminal Procedure, 1973 (2 of 1974), for the trial of cases, and (b) in the case of all other enquiries, in the Code of Civil Procedure, 1908 (5 of 1908), for the trial of suits, recording a memorandum of the substances only of the evidence, and the reasons for his findings as in the cases in which no appeal lies.

18. Fees :-

(1) A fee of seventy-five paise shall be payable on every application made before the Controller under the Act, not being an application mentioned in sub-section (6) of section 21 or section 23.

(2) A fee of rupees two shall be payable on every application for withdrawal of any deposit of rent under section 23.

(3) The fee chargeable in respect of a certified copy of any application, written statement or document shall be rupees five: Provided that when an application is made at the same time for certified copies of the application, written statement and order in the same case, there shall be charged a consolidated fee of rupees ten for all of them.

(4) The fee chargeable for certified copy of notes of evidence and

of judgment shall be rupees five (each) per page inclusive of both sides plus forty paise for a folio of 90 words:

Provided that when an application is made at the same time for certified copies of notes of evidence, judgment and proceedings of the same case there shall be charged a consolidated fee of rupees ten together with the charge of forty paise each for a folio of 90 words.

(5) In the case of an urgent application for copies, an expedition fee of rupees two shall be payable in addition to the fees specified above:

Provided that if the copy exceeds four folios, extra charge of forty paise for each extra folio shall be payable.

(6) If the Head of any Department or Directorate of the Government applies to the Controller for a certified copy of any final order of the Controller for any public purpose, a certified copy of such order shall be granted to such applicant on plain paper only.

(7) In the matter of granting copies of records written in languages other than English and Bengali, the procedure laid down in the Civil Rules and Orders for the guidance of Civil Courts and Officers subordinate to the High Court of Calcutta shall be followed with such modifications as may be necessary.

(8) In granting copies of maps or plans, the applicant shall file with the application for copies necessary tracing papers. The cost of copies of such maps or plans shall be assessed by the Controller in such manner as he thinks fit.

19. Searching fee :-

In respect of each application for information regarding deposit of rent or for duplicate copies of application for deposit of rent not received by landlords, searching fees shall be levied according to the following scales :-

- (i) for deposits made during one month or part - rupees two,
- (ii) for deposits made during more than one month -
 - (a) for the first month - rupees two, and
 - (b) for each subsequent month or part - rupee one.

20. Fee for correction of challan :-

A fee of rupee one shall be payable on every application for correction of a challan depositing rent.

21. Process fee :-

A process fee at the rate of ¹ [rupees thirty four] for every party on whom a notice is to be served shall be paid in cash with an application referred to in section 10, section 11, section 17, section 26, section 35, section 36 or section 37, or a petition of complaint under section 27, section 28, section 29, section 30, section 31, section 32, section 33 or section 34.

1. Substituted by Notification No.1585-LR./1C-01/2003, dated 13.6.2003, Published in the Kolkata Gazette, Extraordinary Part I dated 13th June, 2003, for "rupees twenty".

22. Check It :-

Process fee for service of notice in the case of deposit of rent by tenant. - A process fee at the rate of ¹ [rupees thirty four] for every party on whom a notice is to be served shall be paid in cash in respect of each deposit of rent under section 21 along with such deposit.

1. Substituted by Notification No.1585-LR./1C-01/2003, dated 13.6.2003, Published in the Kolkata Gazette, Extraordinary Part I dated 13th June, 2003, for "rupees twenty".

23. Check It :-

Process fee for service of notice for the purposes of section 39(3) (a). - A process fee at the rate of 1[rupees thirty four] for every party on whom a notice is to be served under clause (a) of sub-section (3) of section 39 shall be paid in cash by the applicant seeking relief under the Act.

24. Fee for affidavit :-

An affidavit sworn before the Controller shall be charged with a fee of rupees ten payable in non-judicial stamps.

25. Fees to be paid in court-fee stamps :-

The fees referred to in these rules shall, unless otherwise expressly provided, be paid in court-fee stamps.