



**Western Cape
Government**

Human Settlements



Annual Report 2011/2012
Rental Housing Tribunal

WESTERN CAPE RENTAL HOUSING TRIBUNAL
ANNUAL REPORT
1 APRIL 2011- 31 MARCH 2012

INDEX

	<u>Page</u>
Foreword by Chairperson	4
Part 1: General information	6
Part 2: Human Resource Management	8
Part 3: Performance of the Tribunal	9

FOREWORD BY CHAIRPERSON

It is with pleasure that we submit this annual report, covering the period 1 April 2011 to 31 March 2012, to the Provincial Minister of Human Settlements and to the Western Cape Provincial Legislature.

Being very aware of the imperatives in the Rental Housing Act, 1999 (Act No. 50 of 1999) to settle cases within 90 days, it gives me great pleasure to report that a joint working relationship between Tribunal Members, Management, Support Staff and Blue Gheko (Rental Housing Tribunal official statistical keeper) yielded positive results to the extent that the Western Cape Rental Housing Tribunal backlog has been reduced by 65% in the reporting year. This joint working effort was done so as to help clean the Blue Gheko reports generated by the E-Mats System and thus avoid any doubts around the accuracy of the E-Mats System statistics. Such an exercise entailed physical counting and an analysis of cases on official's desks, monthly case reviews of Case Officers and a continuous engagement with Blue Gheko. These efforts proved to be very effective in that the 2009/2010 financial year backlog of 1819 complaints was, in 2010/2011 financial year, drastically reduced to 344 backlog complaints. However, the current financial year backlog is sitting at 225 backlog complaints (cases 90 days and older) with an average age of 114 days old since reported.

As much as the backlog has been reduced drastically, it is still a concern that we have as yet not been able to settle cases within the prescribed 90 day turnaround time as prescribed in the Rental Housing Act, 1999 (Act No. 50 of 1999). One of the key challenges in us not being able to meet this legislative requirement has been, among other things, staff capacity challenges. As a long term solution, we have employed two new Case Officers who have subsequently joined the Rental Housing Tribunal. Three new Administration Clerks post have been advertised and it is expected that such incumbents will be employed in the next financial year.

We have during this reporting period started a process of engaging with Western Cape District Municipal Managers with the sole intention of sensitising them about the

establishment of Rental Housing Information Officers in municipalities as prescribed in Section 14 (3) of the Rental Housing Act (Act No. 50 of 1999). These meetings gave the Rental Housing Tribunal Members an indication of what needs to be done in order to establish Information Offices within the municipalities. In the next financial year, the Tribunal intends to engage with District Municipalities of the Western Cape through the Department of Local Government in an effort of achieving this goal. It is the view of the Tribunal that Information Offices will be helpful in providing advice and guidance to their surrounding communities about the rights and obligations of tenants and landlords within the rental housing sector.

Thirdly, the Western Cape Rental Housing Tribunal has, as from August 2011, started attending to ¹non-compliance to Tribunal rulings. It is hoped that this new leg of the Tribunal will help in building more confidence in the public about the rulings made by the Tribunal.

The Tribunal has, during this reporting period, submitted comments on the Rental Housing Amendment Bill (the Bill). The Bill sought to make amendments to the principal Act, namely the Rental Housing Act, 1999 (Act No. 50 of 1999), in order to address shortcomings identified in the principal Act. The Tribunal opposed the creation of a right to appeal for a number of reasons. The main reason for objection was that, such a right will be abused by both the landlords and tenants which will delay finality to be reached.

In conclusion, I would like to thank all the officials in the Department of Human Settlements, the staff at the Rental Housing Tribunal and Members for their unwavering hard work, support and enthusiasm in rendering this valuable service to the public

ARNO BOTHA


Chairperson: Western Cape Rental Housing Tribunal

¹ People who refuse to adhere or honor the rulings of the Tribunal

PART ONE: GENERAL INFORMATION

1.1 Introduction

Formed in 2001, the Rental Housing Tribunal consists of five members (including a chairperson and vice chairperson), and one alternate member (appointed by the Provincial Minister of Human Settlements) who have expertise in property management, housing development and consumer matters pertaining to rental housing. The Tribunal is assisted by the support component of the Directorate: Communications and Stakeholder Relations. The Tribunal provides a free service to tenants and landlords in the Western Cape, and its main function is dispute resolution between tenants and landlords.

The Tribunal is established in terms of Section 7 of the Act. The activities of the Tribunal are funded from moneys appropriated by the Provincial Legislature and the Head of the Department of Human Settlements is the Accounting Officer.

1.2 Legislative framework

The following legislation provides fundamental principles and guidelines upon which the Tribunal operates:

- The Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
- The Rental Housing Act, 1999 (Act No 50 of 1999);
- The Unfair Practice Regulations and the Procedural and Staff Duties Regulations published in terms of Act 50 of 1999;
- The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No 19 of 1998).

1.3 Vision

The Western Cape Rental Housing Tribunal seeks to harmonise relationships between landlords and tenants in the rental housing sector.

1.4 Mission statement

The Western Cape Rental Housing Tribunal seeks to promote stability in the rental housing sector by facilitating the process of resolving disputes and advising landlords and tenants.

1.5 Key functions

- To promote stability in the rental housing sector;
- To provide mechanisms to deal with disputes in this sector;
- To promote the provision of rental housing property;
- To facilitate, investigate, mediate and conduct hearings to resolve disputes between landlords and tenants;
- To inform landlords and tenants of their rights and obligations should unfair practices arise; and
- To make recommendations to relevant stakeholders regarding issues to be addressed in the rental housing field.

PART TWO: HUMAN RESOURCE MANAGEMENT

2.1 Personnel arrangements

The Rental Housing Tribunal does not have personnel within its employ. The administrative and technical support functions are performed by staff within the employ of the Department of Human Settlements that provides a Support Component in terms of Section 11 of the Act.

2.2 Personnel and related information

The Rental Housing Tribunal Members are appointed by the Provincial Minister for Human Settlements in the Western Cape. In terms of the Rental Housing Act, the Minister is vested with the powers to appoint members of the Tribunal who have expertise in property management, housing development and consumer matters pertaining to rental housing.

The current Tribunal consists of the following members:

Table 1

Name	Capacity	Profession	Term as a Member
Mr JJA Botha	Chairperson	Practicing attorney	01/07/10 1 st Term
Ms M Wotini	Deputy Chairperson	Manager	01/01/10 4 th Term
Mr RJ Vincent	Member	Retired legal advisor	01/08/09 1 st Term
Mr I Higgins	Member	Practicing attorney	01/08/09 1 st Term
Ms V Marks	Member	Property Consultant	01/07/10 3 rd Term
Ms P van Renen	Alternate Member	Social Worker	01/07/10 1 st Term

The term of office for members is 3 years, unless extended for a further term. For the reporting period, the Western Cape Rental Housing Tribunal Members have remained the same.

2.3 Expenditure

Expenditure in respect of the Tribunal for the financial year is as follows:

1. Compensation and benefits of staff:	R 4 105 238.26
2. Compensation of Tribunal members:	R 1 589 742.95
3. Other expenses:	R 1 078 408.49
- Air transport, Car rental, Kilometer allowance (own transport)	
- Accommodation, Printing	
- Legal advice	
Total:	R 6 773 389.70
4. Budget:	R 6 773 389.70

PART THREE: PERFORMANCE OF THE TRIBUNAL

3.1 Review of activities

3.1.1 Staffing

3.1.1.1 Administration unit

Two (2) administration clerk posts became vacant during this reporting period. These posts have subsequently been advertised. The interviews have been completed and the successful candidates have been identified. Furthermore, three (3) new employees are to resume work in the administration component within the next financial year, including an internal transfer within the Department of Human Settlements.

The administration component of the Rental Housing Tribunal is of vital importance for a fully functioning and effective Western Cape Rental Housing Tribunal. The administration component is where all the complaints from the public are processed and registered. The timeous registration of these complaints are crucial in terms of ensuring that the Tribunal meets its legislative mandate of settling registered complaints within 90 days from the date in which the complaint was reported.

In terms of the approved structure of the Rental Housing Tribunal, the administration component has a staff of capacity of six (6) people: (1) Assistant Director, (1) Senior Administration Manger and (4) Senior Administration Clerks.

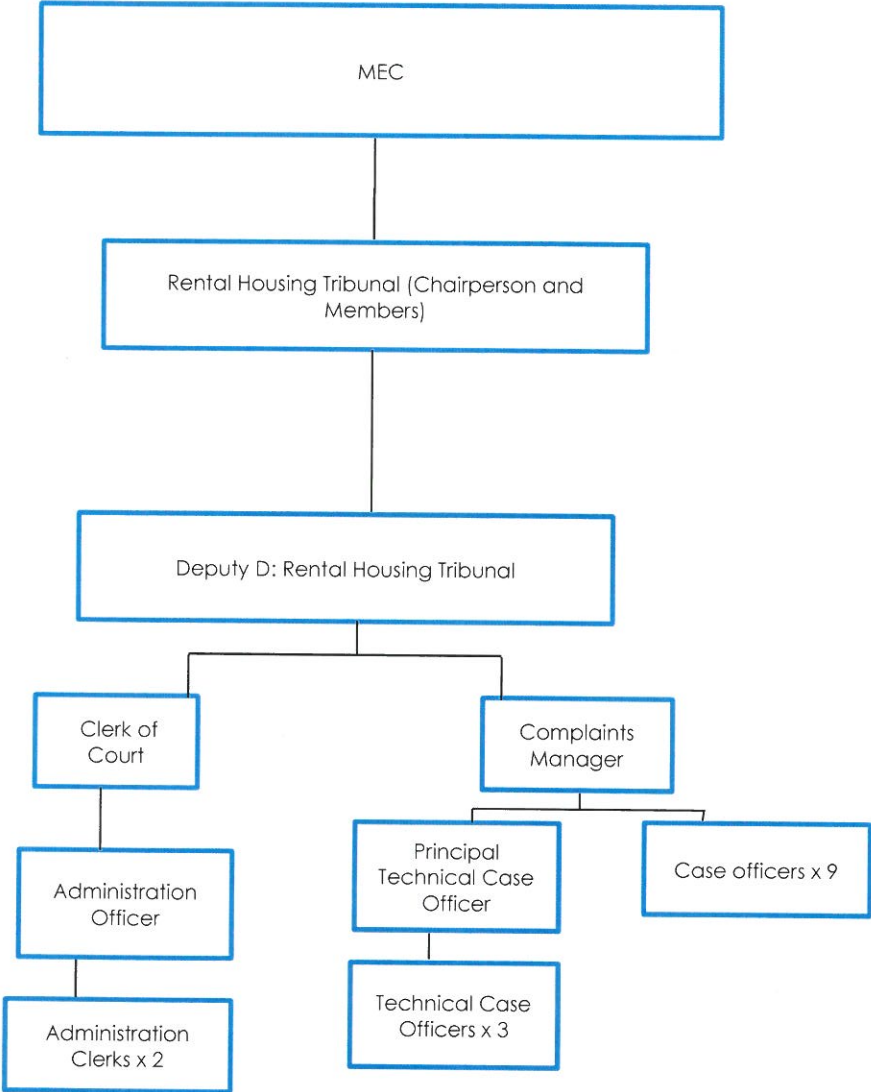
3.1.1.2 Case Officer's unit

Three new (3) Case Officers (2 permanent and 1 contract) were employed during this reporting period. This was brought about by staff capacity challenges which are brought about by the constant increase in reported cases. In total, there are currently nine (9) Case Officers who are responsible for the investigation of reported complaints. It must be stressed that this number is not sufficient in light of the constant increase in reported cases. Additional Case Officers will have to be employed in the next financial year.

3.1.1.3 Management of the unit

During the reporting period, the Deputy Director of the unit has applied to be transferred to another unit within the Department of Human Settlements. This position has been advertised and the replacement will be appointed during the 2012/13 financial year.

The Support Component consists of the following structure:



3.1.1.4 Call Centre

The Western Cape Rental Housing Tribunal Call Centre came into being in 2007. The aim of establishing such a Call Centre was to streamline calls which were received by the Western Cape Rental Housing Support Staff so as to reduce the time spent by the officials attending to queries from the public.

Below is a comparison of all Rental Housing Tribunal calls received by the Call Centre in 2010/2011 reporting period versus calls received in 2011/2012 reporting period.

Table.2

2010/2011 MONTH	CALLS RECEIVED	2011/2012 MONTH	CALLS RECEIVED
April	1047	April	877
May	1102	May	1101
June	1026	June	1026
Jul	1118	Jul	1051
Aug	973	Aug	1308
Sept	1062	Sept	1324
Oct	1131	Oct	1242
Nov	1064	Nov	1371
Dec	816	Dec	921
Jan	999	Jan	1259
Feb	1031	Feb	1366
Mar	1157	Mar	1369
	12526		14215

While the call volume appears high, not all calls received by the Call Centre were converted to official complaints. The reasons calls received ranged from:

- Advice about rental problems
- The need to lodge an official complaint
- Queries about the case number and the official working on the complaint of the caller

About 85% of the calls received are about deposit refunds, questions on lease agreements, advice on failure to pay rental and failure to do maintenance. Staff of the Call Centre is continuously trained on the provisions of the Rental Housing Act and other legislations relating to the rental housing sector. In cases where the calls received are complex in nature, the Call Centre officials would transfer the call to the Rental Housing Tribunal office or to the Department of Human Settlements helpdesk.

3.2 Department Helpdesk

The Department of Human Settlement helpdesk attends to a large number of queries from the public about the services of the department. Some of the queries that the department helpdesk attends to is related to services which are rendered by the Rental Housing Tribunal office.

In this reporting period, the helpdesk attended to four thousand six hundred ninety eight **(4698)** queries from the public as compared to one thousand nine hundred and twenty two **(1922)** Rental Housing Tribunal related queries in the past financial year. This increase was more than double the number of walk-ins attended to by the Department helpdesk in the past financial year (2010/2011).

This increase in Rental Housing Tribunal queries could not have come without creating a strain on the Department helpdesk support staff which consists of a staff capacity of 4 permanently employed officials and an additional intern.

Table.3

MONTH 2010/2011	RHT ENQUIRIES ATTENDED TO	MONTH 2011/2012	RHT ENQUIRIES ATTENDED TO
April	135	April	254
May	178	May	270
Jun	139	Jun	330
Jul	106	Jul	323
Aug	120	Aug	361
Sept	195	Sept	427
Oct	199	Oct	413
Nov	222	Nov	477
Dec	120	Dec	304
Jan	180	Jan	532
Feb	152	Feb	545
Mar	176	Mar	462
	1922		4698

3.3 Performance of the Tribunal

3.3.1 Reported Cases

The Rental Housing Tribunal cases have constantly been on the increase since the first reporting year of 2000/2001. Such increase has been influenced by an increase in rented property as compared to people buying property as well as the fact that more people (public) are aware of the services rendered by the Rental Housing Tribunal.

Table.4

	NUMBER OF REPORTED CASES PER YEAR 2000 - 2006					
Financial year	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
Number reported	102	120	233	299	352	487
Percentage		+17%	+94%	+28%	+17%	+38%

Table.5

	NUMBER OF REPORTED CASES PER YEAR 2007 - 2012					
YEAR	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
Number reported	767	904	1237	2454	2710	2442
Percentage	+57%	+17%	+27%	+49%	+9%	

A total of **2442** cases were captured during the reporting period, compared to **2710** in the previous year. Due to three months of staff capacity constraints in the administration component of the unit as a result of official promotion (1 official) and maternity leave (1 official), cases were not captured timeously on the system. In effort to assist in this challenge, non-administration staff was seconded to assist in the administration unit.

In an effort to assist the support staff in ensuring timeous resolution of rental disputes, the Rental Housing Tribunal Members have, in a joint effort with management, put in place several directives. These directives, among others pertain to:

- Settlement agreements
- Turnaround time in case investigations
- Serving and issuing of subpoenas
- Confirmation letters on closing of files
- A better screening process of complaints lodged

3.3.2. Hearings conducted

All the hearings of the Western Cape Rental Housing Tribunal are held as close as possible to the point of complaint. Hearings were conducted in Cape Town, George, Knysna, and Hermanus.

Table.6

MONTH 2010/2011	NUMBER OF CASES HEARD	MONTH 2010/2012	CASES REFERRED FOR HEARINGS	NUMBER OF CASES HEARD
April	20	April	28	22
May	19	May	32	18
Jun	18	Jun	64	44
Jul	17	Jul	29	20
Aug	18	Aug	34	22
Sept	23	Sept	54	46
Oct	43	Oct	29	25
Nov	29	Nov	36	20
Dec	18	Dec	15	15
Jan	24	Jan	27	16
Feb	25	Feb	37	20
Mar	25	Mar	55	42
	271		440	310

In this reporting period, the Rental Housing Tribunal Members heard three hundred and ten (310) complaints from the four hundred and forty (440) matters which were referred for hearing. One hundred and thirty (130) complaints were not heard due to the following reasons:

- Matter being settled before the hearing
- Respondent not traceable

It is clear from the above that that parties often elect to settle their disputes once they have been summoned to appear in front of the Tribunal Members. This is mostly common in cases of deposit refunds.

3.3.3. Promotion of Access to Information Act (Act of 2000)

The **Constitution of the Republic of South Africa**, 1996 ("the Constitution") is the supreme law of the country. This means that government can only exercise power over people in the manner for which the law allows.

The right to just administrative action is provided for in Section 33 of the Constitution and reads as follows –

***“(1) Everyone has the right to administrative action that is lawful, reasonable
And procedurally fair.***

***(2) Everyone whose rights have been adversely affected by administrative
action has the right to be given written reasons”.***

In light of the above, the Rental Housing Tribunal has, during this reporting period, received five (**5**) requests from the public who were not satisfied with the rulings of the Tribunal Members. These request were submitted in terms of the Promotion of Access to Information Act (PAIA Act 2 of 2000). Four (**4**) of these requests were complied with the exception of one (**1**) recording which could not be traced as a result of a technical fault in the Tribunal hearing recording equipment.

3.3.4. Prosecutions of non-compliance to Tribunal Rulings

The table below reflects rulings (in money) that were not honored by the parties against which the rulings were made.

Table.7

DATE RULING WAS ISSUED	AMOUNT TO BE PAID BACK IN RANDS
23 February 2011	4 340.60
15 March 2011	43 067.32
15 March 2011	42 976.72
09 May 2011	27 099.00
09 June 2011	14 886.91
14 June 2011	3 800.00
29 June 2011	7 900.00
30 June 2011	5 885.60
28 July 2011	4 488.00
30 July 2011	9 750.00
05 August 2011	2 090.60
05 August 2011	2000.00
15 August 2011	4 500.00
24 August 2011	12 560.75
31 August 2011	4868.09
29 November 2011	5 810.12
TOTAL	R 196 023.71

Section 16 of the Rental Housing Act, 1999 (Act No. 50 of 1999) makes reference to the prosecution of parties who do not comply with a Rental Housing Tribunal ruling. It was only in August 2011 that an official has been employed to attend to non-compliance to Tribunal rulings.

As from August 2011 to the end of this financial year, the Tribunal has attended to sixteen (16) matters of non –compliance to its rulings. Such non –compliances matters amounted to **R 196,023.71**. All of these matters were rulings which were related to either a failure to refund a deposit, failure to pay rental and a remission in rental. These costs were awarded to either a complaint or respondent, depending on the nature of the complaint heard.

Unfortunately the Rental Housing Tribunal and the regulations do not have the mechanism to enforce the rulings and the parties have in these matters have been transferred to a Magistrate Court. Through dedicated effort by the Rental Housing Tribunal staff, a mechanism has been created in terms of which complainants are assisted in enforcing rulings against non - compliers of rulings.

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