

# An analysis: The Practice and Procedures of the Dubai Rent Disputes Settlement Centre

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This article will provide an overview of the structure of the Centre as well as the process and procedures of litigation in cases pertaining to outstanding rent and eviction of tenants.

## **The scope and structure of the centre**

His Highness Sheikh Mohammad Bin Rashid Al Maktoum, Vice-President and Prime Minister of the UAE and Ruler of Dubai issued a decree concerning rent disputes in the Emirate of Dubai (Decree No. 26 of 2013) establishing the Rent Disputes Settlement Centre.

The Centre exclusively carries out the following competences:

- Settlement of all rental disputes arising between property landlords and tenants in Dubai including within the free zones (save for the exceptions below) and any counterclaims and requests to take temporary or summary procedures submitted by any party to a lease.
- Deciding on appeals filed against decisions and judgments in accordance with the provisions of the aforementioned Decree, and the applicable regulations and resolutions.
- Enforcement of decisions and judgments issued by the Centre in relation to rental disputes falling within its authority.

However, the Centre is not empowered to hear the following rental disputes:

- Rental disputes arising within free zones that have special judicial committees or courts competent to settle rent disputes arising within their boundaries.
- Rental disputes arising from financial lease agreements.
- Disputes arising from long term leases.

The structure of the Centre consists of two sectors, a judicial and administrative division. The judicial sector consists of the following departments:

- Reconciliation Department
- First Instance Department
- Appeal Department
- Execution Department

The administrative sector of the Centre consists of a number of divisions mandated to provide technical and administrative support for the judicial sector.

## **Reconciliation Department**

The Reconciliation Department aims at assisting parties to settle rental disputes amicably within a maximum period of 15 days. This period may be extended at the discretion of the supervising judge. If the parties agree settlement terms, it will be documented by way of a settlement agreement signed by the parties and approved by the judge supervising the Department.

## **Litigation Before The Centre: Process And Procedure**

First Instance Department:

The First Instance Department consists of committees each having a chairman (judge) and two members from both the legal and real estate field.

All proceedings at the Centre are conducted in Arabic. Accordingly all the court pleadings will be drafted in Arabic and official Arabic translations of all the documents upon which parties seek to rely in the litigation will be required.

### **Hearings**

Once the claim has been filed and served, there will be a series of hearings during which parties formally appear and file memoranda which set out the claim, defence and all other evidence upon which the parties rely. In practice all arguments, pleadings and documents submitted to the Centre are made by written submission.

The number of hearings and the time it will take to set the matter down for judgment will depend on matters such as the length of time taken to serve the defendants, the complexity of the case and the number of memorandums that are filed.

If the Centre considers the case sufficiently complex or technical it will appoint an expert to review the documents, meet with the parties and ultimately provide an expert report to the Centre.

Once all the pleadings have been exchanged, and the expert report has been submitted where applicable, the Centre will set the matter down for judgment.

There is a right of appeal from the First Instance Department to the Appeal Department within 15 days from the date the judgment is issued.

### **Appeal Department:**

The appeal department of the Centre consists of a number of committees; each of which has a chairman (judge) and two members, one of them being a judge and the other with extensive experience and competence in real estate. These committees are responsible for rendering decisions in relation to appeals filed against decisions and judgments issued by the First Instance Department.

The judgments of the Appeal Department are deemed final.

Judgments issued in rental claims that are less than AED 100,000 (or if the annual rent is less than AED 100,000) will not be accepted by the appeal department save in the following circumstances:

- If an eviction judgment is issued;
- If a judgment is issued in violation of the jurisdiction rules;
- If a judgment is issued with something not requested by the parties, or with more than what they requested or if it disregarded some requests;
- If a judgment is issued against a person who has not been correctly represented in the action or service was not effective;

- If a judgment is based on papers or documents which were declared to be forgeries after the judgment was issued or the judgment was based on a testimony that was judged as a false testimony after the judgment was issued; and
- If a party to the lease conceals data or documents from the First Instance Department that may have changed the original decision.

### **Enforcement of Judgments:**

All final judgments issued by both the First Instance and Appeal Department must be enforced before the execution department of the Centre. The enforcement procedures will commence following the lapse of 15 days from the date the tenant is notified of the execution proceedings.

The First Instance Department's judgment will be considered final if the judgment cannot be appealed for the reasons set out above and/or if it is not appealed by the parties within the statutory time frame.

In cases where the Centre issued decisions for eviction, the eviction date will be scheduled by the Centre (i.e. for the bailiff to visit the premises and carry out the handover process) following the lapse of the notification period.

When the eviction process is concluded the landlord must file another application before the execution department of the Centre to claim rent and other charges against the tenant until the eviction date. The Centre will subsequently carry out an asset search to identify and locate monies and assets owned by the tenant before the concerned authorities.

### **Eviction of Tenants:**

Article 25 (1) of Law No. 26 of 2007, as amended by Law No. 33 of 2008, regulating the relationship between landlord and tenants in the Emirates of Dubai (the "Landlord and Tenant Law") provides that landlords may demand eviction of tenants prior to the expiry of a tenancy contract in the following circumstances:

- If the tenant fails to pay rent, or part of the rent due within 30 days of the landlord's notice for payment; unless parties agreed otherwise.
- If the tenant subleases the property, or part thereof, without the landlord's written approval, the tenant and the subtenant can be evicted with the subtenant's right to refer to the tenant for compensation being reserved.
- If the tenant uses, or allows others to use, the property for illegal or immoral activities.
- If the leased property is a commercial shop and the tenant left without occupation and without legal reason for 30 continual days or 90 non-continual days in one year; unless the parties agreed otherwise.
- If the tenant causes changes that endanger the safety of the property in a way that it cannot be restored to its original condition or if he causes damage to the property intentionally or due to his gross negligence or if he allows others to cause such damage.
- If the tenant uses the property for purposes other than the purpose it was leased for or if he uses the property in a way that violates planning, building and land using regulations.
- If the property is in danger of collapse, provided that landlord must prove such condition by a technical report issued by Dubai Municipality or accredited by it.
- If the tenant fails to observe legal obligations or tenancy contract conditions within 30 days from date of notification by the landlord to abide by such obligations or conditions.
- If development requirements in the Emirate require demolition and reconstruction of the property in accordance with government authorities instructions.

And for the purpose of this Article 25(1) the landlord must notify the tenant through the [Notary Public](#) or by registered mail.

Article 25 (2) of the Law also provides grounds for eviction upon the expiry of a tenancy contract which are

limited to the following cases:

- If the owner wishes to demolish the property for reconstruction or to add new constructions that prevent the tenant from benefiting from the leased property, provided that necessary licences are obtained.
- If the property requires renovation or comprehensive maintenance which cannot be executed while the tenant is occupying the property, provided that a technical report issued by Dubai Municipality or accredited by it is to be submitted to this effect.
- If the owner of the property wishes to recover the property for use by him personally or by his next of kin of first degree provided that he proves that he does not own a suitable alternative property for that purpose.
- If the owner of the property wishes to sell the leased property.

And for the purpose of clause (2) of this Article, the landlord must notify the tenant with reasons for eviction at least twelve months prior to the determined date of eviction subject that such notice be sent through the [Notary Public](#) or by registered mail.

If a landlord demands recovery of the property for his own use, then the landlord cannot rent the property to others for at least two years for residential property and three years for non residential property.

We trust that this article acts as a helpful overview of the structure and function of the Centre and the applicable procedures that shape how litigation before the Centre is conducted.