

# ARREAR RENTAL

## WHAT CAN HAPPEN IF YOU ARE BEHIND WITH RENT PAYMENTS?



Remember, a lease agreement might be written or just a spoken agreement!

A tenant has a legal obligation to pay rent in terms of the lease agreement. It is a material (serious) breach of the lease agreement if a tenant does not pay. This breach entitles a landlord to demand payment of the "arrear rental" (rent you owe) and to cancel the lease agreement.

To demand arrear rental, a landlord must:

1. Let you know you are "in arrears" (behind on rent)
2. Tell you how much arrear rent you owe
3. Provide a date by which the tenant must pay and warn them the landlord will sue them and/or cancel the lease if they fail to pay by that date



The lease might say how much time the landlord should give. If it doesn't, it must be a reasonable period of time: usually 7 or 14 days.

## WHAT HAPPENS NEXT?

If you do not pay by the date:

Landlord may cancel  
You will STILL owe the arrear rent!

If you pay late & they already cancelled:

The lease remains cancelled.

If the landlord cancels the lease, your occupation becomes unlawful because you no longer have their agreement to live on the property. The landlord may claim damages from you for the period that you unlawfully occupy if they sue for it. However, you are still protected from eviction by the PIE act. If the landlord wants to evict you, they must apply for an eviction order from court.

## IMPORTANT: THE LANDLORD CANNOT ACT ILLEGALLY TO FORCE YOU TO PAY OR TO LEAVE.

For example, the landlord cannot take your belongings or lock you out of your home.



**TO EVICT YOU:** The landlord must get an order from court.

**TO FORCE YOU TO PAY:** The landlord must follow the legal process to sue you.

If the landlord sues you, the sherriff must serve you with a summons. They will also write a list of your belongings. This is called "attaching" your property as security for what the landlord says you owe, Only if the landlord is successful in court can some of your belongings be sold in order to pay the landlord what the court finds you owe them.

**IF THE LANDLORD STARTS EITHER OF THESE COURT PROCESSES,  
IMMEDIATELY SEEK LEGAL ADVICE.**