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Lease Disputes Resolution Act

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RT I 2003, 15, 86

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Amended by the following acts

Passed	Published	Entry into force
15.06.2005	RT I 2005, 39, 308	01.01.2006
26.01.2006	RT I 2006, 7, 42	04.02.2006
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24–26).

Chapter 1 LEASE COMMITTEE

§ 1. Competence of lease committee

(1) A lessee or lessor may have recourse to a lease committee or court for resolution of disputes arising from dwelling lease contracts (hereinafter *lease dispute*).

(1¹) Lease committees shall not resolve disputes involving financial claims in excess of 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

(2) A lease committee resolves a dispute unless recourse has been had earlier to a court in the same matter.

(3) A lease committee resolves a dispute which has arisen from lease of a dwelling in its territorial jurisdiction.

(4) If a lease dispute arose from lease of a dwelling outside the territorial jurisdiction of a lease committee, the lease committee shall resolve the dispute if the relevant local government has entered into an administrative contract with local government which established the lease committee.
[RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 2. Legal status of lease committee

(1) A local government may establish a lease committee on the basis of this Act. A lease committee is an independent body of a local government which resolves lease disputes.

(2) The territorial jurisdiction of a lease committee is the territory of the local government which established the lease committee.

(3) A party to a lease contract of a dwelling located in the territorial jurisdiction of a lease committee may have recourse to the lease committee for resolving a lease dispute.

§ 3. Membership of lease committee

(1) A lease committee consists of a chairman and members.

(2) The chairman shall organise the work of a lease committee and designate from among the members of the lease committee the membership of the committee which resolves a lease dispute (hereinafter *committee*) and the person chairing its sitting.

(3) A committee which hears a lease dispute shall consist of three members.

(4) A lease dispute is heard and a decision is made by the same membership of a committee. Upon the death of a member of a committee or in the case he or she is unable to participate in the work of the committee for a long period, the chairman of the lease committee shall appoint a new member to replace him or her. In the case a new member is appointed, the committee shall recommence the resolution of the dispute.

(5) If a member of a committee cannot be replaced by a member of the same lease committee, the chairman of the lease committee may appoint such a person to replace him or her who has passed the examination of members of lease committees.

(6) The persons specified in subsection (5) of this section shall be appointed as a member of the committee with his or her consent.

§ 4. Requirements for members of lease committees

(1) A chairman of a lease committee shall be only a person who has completed the national curriculum of academic legal studies and passed the examination of members of lease committees.

(2) A member of a lease committee shall be only a person who has passed the examination of members of lease committees.

(3) The examination board for members of lease committees shall be formed and the procedure for examinations shall be established by a regulation of the Ministry of Economic Affairs and Communications.

Chapter 2 PROCEEDINGS OF LEASE COMMITTEES

§ 5. Filing of petitions

(1) A lease committee accepts a lease dispute on the basis of a written petition of a lessee or lessor.

(2) The following shall be set out in a petition:

- 1) the name of the lease committee;
- 2) the name, residence or registered office and telecommunications numbers of a lessee and lessor;
- 3) a clearly expressed request of the petitioner and the facts on which it is based;
- 4) the evidence proving the allegations stated in the petition.

(3) A copy of the registry card of a lessor who is a legal person and the lease contract and other documentary evidence shall be appended to a petition.

§ 6. Refusal to accept petition and termination of proceedings

(1) The chairman of a lease committee shall decide on the acceptance of a petition within three working days as of the receipt of the petition.

(2) A petition shall not be accepted or the proceedings are terminated, if:

- 1) resolution of the dispute is not within the competence of the lease committee;
- 2) a court or lease committee is hearing the same dispute of the same parties on the same basis;
- 3) the same dispute has already been resolved by a lease committee or court.

(3) If a petition is not in compliance with the requirements provided for in § 5 of this Act, the chairman of a lease committee shall grant a term for elimination of the deficiencies. If the petitioner fails to eliminate the deficiencies within the specified term, the chairman of the lease committee shall refuse to accept the petition.

(4) Refusal to accept a petition or determination of a term for elimination of deficiencies shall be immediately communicated to the petitioner in writing. The notice shall set out the deficiency or the reasons for refusal.

§ 7. Term for hearing of petition

- (1) Sittings of a committee are held within one month as of the day following the acceptance of a petition.
- (2) In the case a sitting of the committee is postponed, the sitting shall be held within one month as of the day of the previous sitting.

§ 8. Preparations for hearing of petition

- (1) When accepting a petition, the chairman of the lease committee shall determine the membership of the committee resolving the dispute.
- (2) When preparing for a sitting, the committee shall perform the acts necessary for the resolution of the matter and request the necessary evidence.
- (3) The committee shall determine the time and place of sittings and arrange for the delivery of summonses to the petitioner, opposing party of the lease dispute (hereinafter *respondent*) and witnesses and determine the date when the respondent shall provide his or her objections, evidence and requests.
- (4) Copies of a petition and annexes thereto shall be sent to the respondent together with the summons.

§ 9. Summoning to committee sittings

- (1) Parties and witnesses are summoned to a sitting of the committee by summonses.
- (2) A summons shall set out:
 - 1) the name of the person summoned to a sitting;
 - 2) the name and address of the lease committee;
 - 3) the time and place of the sitting;
 - 4) the duty of the person who receives the summons in the absence of the addressee to forward the summons to the addressee at the earliest opportunity;
 - 5) the duty to give notice of a legal impediment to failure to appear in a committee sitting;
 - 6) consequences of failure to appear in a committee sitting.
- (3) The provisions of the Code of Civil Procedure shall respectively apply to summoning to committee sittings.

§ 10. Evidence

- (1) In a lease dispute, evidence includes the testimony of a witness and statements of a party, on-the-spot visit of inspection, expert opinion and documentary evidence. The provisions of the Code of Civil Procedure concerning witnesses, on-the-spot visits of inspection and experts shall respectively apply to evidence.
- (2) A committee shall accept evidence which is relevant to the matter. A committee shall justify refusal to accept evidence.
- (3) Evidence shall be submitted by the parties to a lease dispute. The party shall prove the circumstances on which his or her claims and objections are based.
- (4) A petitioner shall submit the evidence and requests in a petition and a respondent shall submit these by the date determined by the committee. The committee shall consider the evidence and requests submitted later, if the petitioner or the respondent were unable to submit these by the due date with good reason.
- (5) The committee shall explain to the parties the need for submission of additional evidence and request or collect evidence on its own initiative, if this is necessary for fair adjudication of the matter.

§ 11. Committee sittings

- (1) The committee hears lease disputes at a sitting.
- (2) Sittings of the committee shall be public. The committee may declare a closed sitting on the basis prescribed in civil proceedings.
- (3) Sittings of the committee are generally held at the locations of the committees. The committee may hold a sitting elsewhere at the reasoned request of a party.

§ 12. Participation in committee sittings

- (1) A lease dispute shall be reviewed in the presence of the lessee and lessor or their representatives. The committee shall verify the authority of the representatives. The provisions of the Code of Civil Procedure shall respectively apply to representation.
- (2) The committee shall postpone a sitting, if a party informs the committee that he or she has good reason for absence from the sitting, and proves the existence of good reason before the sitting is held.
- (3) If both parties fail to appear at a sitting without good reason, the committee shall refuse to hear the petition.
- (4) If a petitioner fails to appear at a sitting without good reason, the committee shall refuse to hear the petition. At the request of the respondent, the committee may postpone a sitting or adjudicate on the merits of the dispute without the presence of the petitioner.
- (5) If a respondent fails to appear at a sitting without good reason, the committee shall resolve the dispute without his or her presence or postpone the sitting at the request of the petitioner.

§ 13. Course of sitting

- (1) The chairman of a sitting ascertains at the beginning of the sitting who of the summoned persons have appeared at the sitting and whether the persons absent are aware of the sitting and any information regarding their failure to appear.
- (2) The chairman of the sitting shall ascertain the identity of the persons present and the authorisation of the representatives, announce the content of the petition and the membership of the committee and explain the right of removal to the parties.
- (3) The committee shall hear additional requests of the parties and decide the satisfaction thereof. The committee shall satisfy a request if it is justified and it could not be filed earlier. The committee shall substantiate its decision.
- (4) The chairman of the sitting shall first give the floor to the person filing the petition who shall present his or her claim and the bases therefor. If necessary, the committee shall explain to the petitioner his or her rights and the nature of the dispute and pose questions. Thereafter the other party may pose questions.
- (5) A respondent has the right to present objections to a claim. If necessary, the committee shall explain to the other party his or her rights and the nature of the dispute and pose questions. Thereafter the other party may pose questions.
- (6) The committee shall examine collected evidence and hear the opinions of parties.
- (7) The committee shall announce the date of making the decision and the procedure for receipt of the decision.

§ 14. Bases for removal of committee member

- (1) A member of the committee is required to remove himself or herself if he or she is directly or indirectly interested in the adjudication of the matter or if there are other circumstances which give reason to doubt his or her impartiality.
- (2) A party to a lease dispute may request removal of a member of the committee on the bases provided for in subsection (1) of this section. Petition for challenge shall be submitted at the latest at the beginning of the sitting of the committee. The petition may be submitted later if the circumstances which are the basis for removal become known to the petitioner for challenge after the beginning of the sitting.
- (3) The removal shall be decided by the committee in the absence of the member to be removed. Upon an equal division of votes, the member of the committee shall be removed.
- (4) The chairman of the committee shall appoint a new member to replace the removed member.

§ 15. Postponement of sitting

The committee shall postpone the hearing of a matter, if:

- 1) a member of the committee is removed;
- 2) the bases provided for in subsection 12 (2), (4) or (5) of this Act exist;
- 3) both parties consent to postponement of the sitting;
- 4) another impediment which cannot be eliminated in the given sitting becomes evident.

§ 16. Minutes of sittings

- (1) Minutes shall be taken of the committee sittings.

(2) The minutes of a committee sitting shall record information relevant to the dispute.

(3) The minutes of a committee sitting shall set out:

- 1) the date and place of the sitting;
- 2) the time at which the sitting begins and ends;
- 3) the name and membership of the lease committee and the names of the chairman and clerk of the sitting;
- 4) the names of the parties to the lease dispute;
- 5) the information concerning attendance of the parties to the lease dispute and witnesses;
- 6) the petitions and requests of the parties;
- 7) the information concerning explanation to the parties of their rights and obligations;
- 8) the essential content of the explanations, requests and objections of the parties and the testimony of witnesses;
- 9) information concerning the presentation of documentary evidence;
- 10) the information concerning explanation of the place of publication of the decision and the procedure for contestation of the decision;
- 11) the date on which the minutes are signed.

(4) The minutes shall be signed by the clerk and chairman of a sitting.

§ 17. Making of decision of committee

(1) The committee shall make a decision on behalf of the lease committee within seven working days as of the hearing of the matter.

(2) Only members of the committee shall be present while the decision is made.

(3) The committee shall evaluate all evidence from all perspectives, thoroughly and objectively when making a decision. No evidence shall have predetermined weight for the committee.

(4) Decisions shall be made by majority vote upon voting.

(5) Members of the committee do not have the right to remain undecided.

§ 18. [Repealed - RT I 2005, 39, 308 - entry into force 01.01.2006]

§ 19. Requirements applicable to decisions

(1) A decision of the committee shall be lawful and reasoned. The committee shall not make a decision concerning a claim which has not been filed.

(2) A decision shall be prepared in writing and it shall be signed by all members of the committee.

(3) Decisions consist of an introduction, descriptive part, reasons of the committee and a conclusion.

(4) The introduction of a decision shall set out the name of the lease committee which makes the decision and the membership of the committee, the name of the secretary of the sitting, date and place of making the decision and the names of the representatives.

(5) The descriptive part of a decision shall set out the claim of the petitioner and the objections of the other party.

(6) The statement of reasons of a decision shall set out the facts and evidence established by the committee, the conclusions reached by the committee on the basis thereof, and the legal acts applied by the committee. The decision shall justify the assessments of the evidence and refusal to take account of the allegations of a party, if the committee did not consent to the allegations.

(7) The conclusion of a decision shall set out the position of the committee concerning the satisfaction or dismissal of the complaint and information on that the petitioner has the right to recourse to a court.

(8) A member of the committee who holds a dissenting opinion upon making a decision may present his or her dissenting opinion. The dissenting opinion shall be appended to the decision and the member of the committee who holds a dissenting opinion shall sign it.

§ 20. Communication of decisions

(1) Committee decisions shall be public.

(2) A lease committee shall send a copy of the decision to the parties.

(3) Committee decisions which have entered into force shall be published on the website of the lease committee.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 21. Recourse to court in same lease dispute

(1) If a party does not consent to the decision of the committee or the procedural decisions or acts made upon hearing a lease dispute, the party shall have the right to have recourse for hearing the same lease dispute to the county courts within 20 days as of the day following the day of receipt of the decision of the committee.

(2) [Repealed - RT I 2005, 39, 308 - entry into force 01.01.2006]

(3) If the committee denies the petition or satisfies it in part, the petitioner may file an action with a court for adjudication of the matter to the extent not satisfied. Only the claims filed to the committee may be filed in the action.

(4) If a committee satisfies a petition in full or in part, the other party may file a request to a court to review in an action the petition filed with the committee. In such case the petitioner is the person who had recourse to the committee and the respondent is the party who filed a petition with the court.

(5) A state fee is payable for the petition specified in subsection (4) of this section in the amount which the petitioner would have had to pay in the case of filing an action.

(6) A petition filed with a committee is deemed to be a statement of claim in the case set out in subsection (4) of this section. If necessary, the court shall set a term for filing a petition in accordance with the format prescribed for statements of claim, for additional justification of his or her opinions and for submission of additional evidence. The court shall not deliver the documents submitted at the committee to the parties.

(7) If an action or petition is filed with a court in a matter which has already been adjudicated by a committee, this shall be set out in the action or petition and a copy of the judgment shall be appended. Upon receipt of an action or petition, the court shall demand delivery of the materials of the adjudication of the matter by the committee and include these in the file. The evidence submitted shall be deemed submitted to the court.

(8) If the person who had recourse to a committee does not submit his or her petition in the case specified in subsection 6 of this section in accordance with the format prescribed for statements of claim by the date determined by the court, the court shall refuse to hear the statement of claim. In such case the decision of the committee shall not enter into force to the extent in which it is contested. The court shall draw the attention of the petitioner to this when it grants a term for filing a petition in accordance with the format prescribed for statements of claim.

(9) The person who submits the petition specified in subsection (4) of this section with a court may discontinue the petition on the same bases and pursuant to the same procedure as in the case of discontinuance of an action. In the case of discontinuance of a petition, the decision of the committee shall enter into force.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 22. Entry into force of decisions

(1) The decision of a committee shall enter into force if no action is filed with a county court in the same dispute within 20 days as of the day of receipt of the decision. The committee shall add a notation on entry into force to the decision, if requested by a party.

(2) Upon partial contestation of a decision of a committee, the decision shall enter into force to the extent which is not related to the contested part. Upon adjudication of a matter, a court is bound to the decision of the committee in the uncontested part thereof.

[RT I 2006, 7, 42 - entry into force 04.02.2006]

§ 23. Consequences of entry into force of decision

(1) A decision of a committee which has entered into force is binding on the parties.

(2) After the entry into force of a decision, the parties shall not file the same claim on the same basis with a court.

§ 24. Execution of decisions

A decision of a committee which has entered into force shall be executed on the basis of the provisions of the Code of Enforcement Procedure.

Chapter 3

IMPLEMENTATION OF ACT

§ 25. [Omitted from this text.]

§ 26. Dissolution and transformation of housing dispute committees

The council of a local government shall decide at the latest by 1 July 2003 the dissolution of housing dispute committees or transformation thereof into lease committees established on the basis of § 63 of the Dwelling Act.

§ 27. [Omitted from this text.]

§ 28. Entry into force of Act

(1) This Act enters into force on July 1 2003.

(2) Subsection 4 (3) and § 26 of this Act enter into force on the 10th day after publication in the *Riigi Teataja*.