



**Western Cape
Government**

Human Settlements



Annual Report 2013/14
Rental Housing Tribunal

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ANNUAL REPORT

1 APRIL 2013 - 31 MARCH 2014

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FOREWORD BY CHAIRPERSON

It is with pleasure that we submit this annual report, covering the period 1 April 2013 to 31 March 2014, to the Western Cape Provincial Minister of Human Settlements and to the Western Cape Provincial Legislature.

Being aware of the imperatives in the Rental Housing Act, 1999 (Act No. 50 of 1999) to settle cases within 90 days, I have, over the past four years, come to realize that due to a number of factors, this seems to be an almost impossible goal to reach.

The Western Cape: Rental Housing Tribunal (WC: RHT) official case management system the WC: RHT had registered three thousand two hundred and sixty four **(3264)** official complaints as compared to the three thousand and fifty three **(3053)** complaints in the 2012/2013 financial year. Coupled with capacity problems, the above increase contributed to an increase in the WC: RHT backlog. At the end of this financial year (2013/2014), the WC: RHT had a backlog of three hundred and fifty three **(353)** cases.

In an effort to address the increase in cases and thereby the backlog challenges, the Department of Human Settlements has agreed to employ additional staff. An additional five **(5)** permanent Case Officers and one **(1)** permanent Administration Clerk were appointed in this period.

The marketing of the Rental Housing Tribunal was considered as an important instrument to resolve some of the challenges that WC: RHT has been beset with, and also in keeping with the obligations of the Rental Housing Act 1999, (Act No. 50 of 1999) the WC: RHT has

- engaged with rental estate agents and shared possible solutions for a better management of rental properties;
- conducted training programs for Community Development Workers (CDWs);
- started a process of setting up Rental Housing Information Offices at municipalities in the Province (an ongoing process);

- put up posters at local government offices and public institutions such as libraries, SAPS and Thusong Centres (an ongoing process);
- Continuously assisted the Tribunal support staff with training and support.

We are grateful that the new Head of Department has shown such a keen interest in the activities of the Rental Housing Tribunal.

In conclusion, I would like to thank all the senior officials in the Western Cape Provincial Department of Human Settlements (who have played a supportive role towards the work of the Tribunal), the support staff and Tribunal Members for their unwavering hard work, support and enthusiasm in rendering an invaluable service to the public.



ARNO BOTHA

Chairperson: Western Cape Rental Housing Tribunal

PART ONE: GENERAL INFORMATION

1.1 Introduction

Formed in 2001, the Tribunal consists of five members (including a chair- and vice-chairperson) appointed by the Western Cape Provincial Minister of Human Settlements. These individuals have extensive 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 settlement 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 Western Cape Provincial Legislature and the Head of Department (HOD) of the Western Cape Provincial Department of Human Settlements functions as the Accounting Officer in respect of moneys appropriated.

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).
- The Consumer Protection Act 2008 (Act No 68 of 2008)

The functions of the Tribunal are to harmonize relationships between landlords and tenants in the rental housing sector; resolve disputes and unfair practices; inform

landlords and tenants about their rights and obligations in terms of the Act; and to make recommendations to relevant stakeholders pertaining to issues related to the rental housing sector.

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 Western Cape Provincial Department of Human Settlements that provides a Support Component in terms of Section 11 of the Act.

2.2 Personnel and related information

The Tribunal Members are appointed by the Western Cape Provincial Minister for Human Settlements. 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 2 nd Term
Ms M Wotini	Deputy Chairperson	Human Resource Practitioner	01/02/14 4 th Term
Mr RJ Vincent	Member	Retired legal advisor	01/08/09 3 rd Term
Mr I Higgins	Member	Practicing attorney	01/08/09 3 rd Term
Ms J Ferdenando	Member	Estate Agent	01/02/14 1 st Term

The terms of office of two members came to an end in December 2013 and January 2014 respectively. The posts were subsequently filled and Ms Wotini was reappointed as Deputy Chairperson and a new ordinary member, Ms Ferdenando, was also appointed.

Both appointments were effective 01 February 2014.

2.3 Expenditure

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

1. Compensation and benefits of staff:	R 6 313 801.54
2. Compensation of Tribunal members:	R 1 580 000.00
3. Other expenses:	R 1 098 030.35
Total:	R 8 943 363.73
4. Budget:	R 8 943 363.73
5. Underspent:	R 0.00

Due to the demand of the work of the Tribunal, the WC RHT budget was increased from **R 7 857 272.77** in the (2012/2013) financial year to **R 8 943 363.73** in the (2013/2014) financial year. The expenditure on compensation and benefits of staff was furthermore increased from **R 5 139 422.20** in the (2012/2013) financial year to **R 6 313 801.54** in the (2013/2014) financial year due to the appointment of new employees.

PART THREE: PERFORMANCE OF THE TRIBUNAL

3 REVIEW OF ACTIVITIES

3.1 STAFFING

3.1.1 Administration unit

One (1) administration clerk position is in the process of being filled.

3.1.2 Case Officer's unit

During the latter part of the financial year five **(5)** permanent case officer positions were filled of which one post was for the Eden District [George Office]. There are now two case officers serving this region. Three **(3)** case officer positions in the Non-Metro region remained vacant and the recruitment and selection process of these posts are underway.

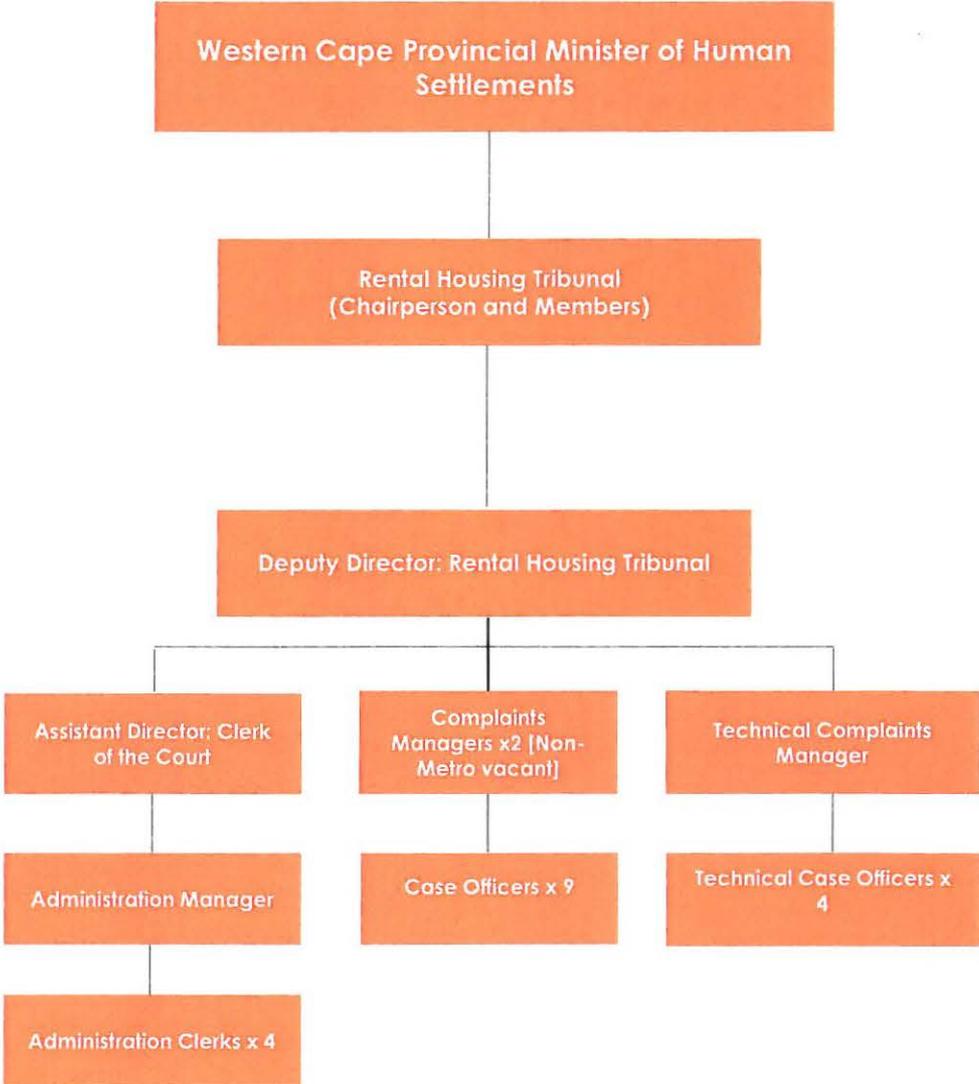
3.1.3 Office Manager

The Office Manager post was filled 01 September 2013.

3.2 STRUCTURE

The Rental Housing Tribunal is incorporated into the Communications and Stakeholder Relations component of the Department of Human Settlements. This provides the opportunity to leverage expertise within the component to educate, market and empower citizens with respect to the Rental Housing Act [50 of 1999].

The Support Component consists of the following structure:



3.2.1.3 Call Centre

The Western Cape Rental Housing Tribunal (WC: RHT) Call Centre came into being in 2007. The aim of establishing the Call Centre was to streamline calls which were received by the Western Cape Rental Housing Support Staff, and to reduce the time spent by the officials attending to queries from the public.

Below is a comparison of calls received by the Call Centre as from the **2011/2012** to **2013/2014** financial years.

Table.2

2011/2012 MONTH	CALLS RECEIVED	2012/2013 MONTH	CALLS RECEIVED	2013/2014 MONTH	CALLS RECEIVED
April	877	April	1 005	April	1357
May	1101	May	1 212	May	1505
June	1026	June	1 059	June	1265
July	1051	July	1 181	July	1366
August	1308	August	1 329	August	903*
September	1324	September	1 090	September	948
October	1242	October	1 296	October	1026
November	1371	November	1 335	November	931
December	921	December	942	December	657
January	1259	January	1 330	January	950
February	1366	February	1 302	February	943
March	1369	March	1 195	March	955
	14215		14 276		12 806

*The reporting template has changed effective 1 August 2013. It now excludes duplicate calls.

However, it must be stressed that not all calls received by the Call Centre were converted to official complaints. The number of calls received ranged from:

- Advice about rental problems;
- Queries about the case number and the official working on the complaint of the caller;
- The need to lodge an official complaint;
- Wanting to be transferred to the Rental Housing Tribunal office.

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 legislation relating to the rental housing sector. In cases where the calls received are of a complex nature, the Call Centre officials would transfer the call to the Rental Housing Tribunal office or to the Western Cape Provincial Department of Human Settlements' Helpdesk..

3.2.3 Department Helpdesk

In this financial year **(2013/2014)**, the Western Cape Provincial Department of Human Settlements' Helpdesk attended to five thousand and twenty six **(5026)** queries from the public, as compared to five thousand seven hundred and seventy five **(5775)** queries in the **2012/2013** financial year. All of these queries consisted of people who came to the Western Cape Provincial Department of Human Settlements' Helpdesk office at **27 Wale Street in Cape Town** for advice and made enquiries on rental housing related matters.

These Helpdesk enquiries ranged from:

- People who came to lodge an official rental housing tribunal complaint;
- People who came to get advice on their rights as either a landlord or tenant;
- People who came to drop off rental housing official complaint/s.

Table.3

MONTH (2011/2012)	RHT ENQUIRIES ATTENDED TO	MONTH (2012/2013)	RHT ENQUIRIES ATTENDED TO	MONTH (2013/2014)	RHT ENQUIRIES ATTENDED TO
April	254	April	246	April	227
May	270	May	497	May	481
June	330	June	540	June	513
July	323	July	565	July	532
August	361	August	539	August	403
September	427	September	421	September	453
October	413	October	535	October	498
November	477	November	522	November	421
December	304	December	289	December	293
January	532	January	608	January	454
February	545	February	557	February	420
March	462	March	456	March	331
	4698		5775		5026

The above table (table.3) reflects the number of people who enquired at the Department Helpdesk for rental enquiries. Of the three thousand and fifty three (**3053**) of the WC: RHT registered official complaints, one thousand two hundred and fifty five (**1255**) cases were reported via the Department Helpdesk. However, this does not take away the important service that the Department Helpdesk is providing for the WC: RHT.

The rest of the reported cases came via fax, post and through the WC: RHT e-mail account.

3.3 Performance of the Tribunal

3.3.1 Reported Cases

This financial year (**2013/2014**) saw an increase of two hundred and eleven (**211**) reported cases as compared to the previous financial year. Reported cases increased from three thousand and fifty three (**3053**) to three thousand two hundred and sixty four cases (**3264**).

Table.4

	NUMBER OF REPORTED CASES PER YEAR 2000 - 2007					
Financial year	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Number reported	120	233	299	352	487	767
Percentage	+17%	+94%	+28%	+17%	+38%	+57%

Table.5

	NUMBER OF REPORTED CASES PER YEAR 2006 – 2013						
Year	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014
Number reported	904	1237	2454	2710	2442	3053	3264
Percentage	+17%	+27%	+49%	+10%	-9%	+25%	+7%

The above increase (2013/2014) is, among other reasons, attributed to the following:

- Word of mouth;
- WC: RHT posters which provide information on the services rendered by the Tribunal which is displayed at certain local government offices and public institutions such as libraries, SAPS and Thusong Centers;
- Various engagements with Municipal Management Forums (MMF).

3.3.2. Hearings conducted

All hearings by the WC: RHT are held as close as possible to the point of complaint. They currently hear four **(4)** matters per day.

Table.6

MONTH (2012/2013)	CASES REFERRED FOR HEARINGS	NUMBER OF CASES HEARD	MONTH (2013/2014)	CASES REFERRED FOR HEARINGS	NUMBER OF CASES HEARD
April	37	19	April	33	23
May	31	23	May	46	16
June	38	22	June	38	21
July	43	32	July	41	24
August	88	51	August	108	98
September	114	16	September	29	11
October	33	18	October	44	22
November	95	14	November	49	29
December	102	14	December	20	15
January	103	10	January	26	19
February	115	20	February	33	24
March	43	20	March	40	28
	842	259		507	330

This financial year **(2102/2103)**, the WC: RHT Members heard two hundred and fifty nine **(259)** cases as compared to the three hundred and ten **(310)** cases heard in the previous reporting period. The number of cases which were scheduled for hearing in this reporting period were much higher than the previous financial year due to the group complaints that the Tribunal had to deal with.

These group complaints entailed cases from De Novo residents **(75 in total)** and Communicare Tenants Association **(88 in total)**.

3.3.3. Warrants of Execution

In the **2012/2013** financial year **41** warrants of execution were issued for monetary non-compliance. In the **2013/2014** financial year **75** warrants of execution were issued for monetary non-compliance.

Relationships have been forged with the Cape Town, Wynberg, Simon's Town, Strand, Paarl and Bellville magistrate courts which facilitate the effective execution of warrants.

3.3.4. Review Applications

Section 17 of the Rental Housing Act (50 of 1999) provides for an aggrieved party to approach the High Court of South Africa in the specific area of jurisdiction to review a Ruling. The review application is commonly referred to as an appeal application.

5 review applications were received of which **2** have been resolved.

3.3.5 Promotion of Access to Information Act (Act of 2000)

In this reporting period **(2103/2104)** the WC: RHT received twelve **(12)** Promotion of Access to Information Act (PAIA) requests as opposed to six **(6)** for the period **(2102/2103)**. The requests were from persons who were not satisfied with the rulings. All of these requests were complied with by providing the requested information and signed off by the Head of the Department (HOD).

4. Highlights

4.1 Amendment Bill

The second semester of the 2013/ 2014 financial year saw the revival of the proposed Amendment Bill and the Western Cape Rental Housing Tribunal provided inputs and comments to the changes contemplated in the aforesaid legislation. Some of the changes envisaged are that all lease agreements must be in writing, the introduction of an appeals authority, municipalities not yet on accreditation level 3 must have a rental housing information office. On 25 March 2014 the Select Committee on Public Services met to adopt the final mandates on the Rental Housing Amendment Bill [B56B-2013].

4.2 Marketing and Education

The Western Cape Rental Tribunal launched a few initiatives to empower stakeholders and citizens on their rights and obligations with respect to the Rental Housing Act [50 of 1999]. In this regard it has fostered a relationship with the Estate Agency Affairs Board and will accompany them on their Roadshows in the new financial year.

5. Conclusion

On the whole, both tenants and landlords are protected by the law, including the **Rental Housing Act**, the **Prevention of Illegal Eviction Act**, the **Consumer Protection Act**, and the **Companies' Act of 2011**. Most common, are problems arising from the incorrect interpretation, or incorrect application of the law. This usually occurs as the result of tenants either having a limited understanding of their rights, of not fully comprehending the consequences of breaching contractual agreements, or of incompetent or unscrupulous behavior on the part of landlords.

For these purposes, the Rental Housing Tribunals provide information regarding agreements, legal rights, deposits and refunds, **rental property inspections**, forced removals, maintenance, damages and claims, as well as the **dispute resolution and arbitration process**. The marketing and education drive is an instrument that yielded

positive results for the Rental Housing Tribunal since the stakeholders are becoming more aware of the existence of such a complaint mechanism. Many important stakeholders in the property sector such as attorneys, estate agents, social housing institutions and municipalities are not fully au fait with the role of the Tribunal and the intention is to roll out marketing initiatives to educate them on the role of the Rental Housing Tribunal.

The biggest challenge to the Western Cape Rental Housing Tribunal is not being able to resolve cases within the legislated prescribed 90-days turnaround time. This can be attributed to a number of reasons, however to meet this challenge, systems and procedures have been revisited and is in the process of been updated to improve the service delivery business model.

Thirdly, with the continued positive working relationship between the Western Cape Provincial Department of Human Settlements, the Tribunal support staff and the Tribunal Members, we are of the view that some of the challenges and achievements highlighted in this report will be strengthened as we move along to the next financial year (2014/2015).

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