

# Can You Evict Someone Else's Tenant?

20 Jan 2016

One of the frustrating elements of communal living is noisy, unruly neighbours who refuse to respect the body corporate rules. Often, the culprits are tenants of an absent owner.

Venter says tenants are not contractually bound by an agreement with the body corporate - only with the owner of the property. However, body corporate rules can be enforced, and legal action can be taken - or fines given, if this is stated in the rules.

In some instances, trustees come under pressure to do something about the situation. The usual route is to speak to the owner who is then tasked with reigning in their tenant. But what happens when the tenant simply refuses to toe the line? Can the body corporate have them evicted?

The short answer is 'no', says Francois Venter, Director of [Jawitz Properties](#). He says the tenant is not contractually bound by an agreement with the body corporate - only with the owner of the property.

However, they can enforce the body corporate rules.

"The body corporate has every right to insist that all tenants comply with the body corporate rules, and even has the power to levy and recover fines from the offender if this is stated in the rules."

According to Tiaan Smit, an associate at legal firm Smith Tabata Buchanan Boyes, the body corporate can also take legal action against the owner or landlord of the property if the tenant has breached a conduct rule.

"They can apply for an interdict compelling the tenant to abide by the conduct rules," Smit says.

"If the tenant fails to comply, the body corporate can apply for an order holding him or her in contempt of court and authorising a warrant of arrest. "

But this is a fairly drastic step, and sometimes the best approach is to simply be relentless in bringing the matter to the owner's attention.

In a complex in the [City Bowl](#), an owner had bought a flat for his daughter, who turned out to be quite a handful. Her transgressions included the usual loud voices and music

far into the night, and knocking on her neighbours doors at all hours to borrow everything from sugar and coffee to washing powder and fabric softener.

In addition, whenever she forgot her remote to the gate in the parking area, she simply got out of her car and forcefully took the gate off its railing so she could squeeze inside, leaving the gate that way overnight and her car parked in the street.

Worse still, she decided to run a laundry service from her flat. As it was one of two ground floor properties, she had a small garden and would string up a washing line in full view from the flats above, which was against the rules. Not to mention the fact that she constantly filled the one communal washing line so that other tenants had nowhere to dry their clothes.

“The body corporate embarked on a strategy of being a thorn in the owner’s side by continuously bombarding him with complaints. Eventually, the owner sold, and moved his daughter out,” says Venter.