

Calcutta Thika Tenancy Rules, 1949

WEST BENGAL

India

Calcutta Thika Tenancy Rules, 1949

Rule CALCUTTA-THIKA-TENANCY-RULES-1949 of 1949

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025.

Notification No. 2030-L. Ref. dated 17th March, 1949. In exercise of the power conferred by section 34 of the Calcutta thika Tenancy Act, 1949 (West Bengal Act No. 2 of 1949), the Governor is pleased to make the following rules, namely :-

1.

These rules may be called the Calcutta thika Tenancy Rules, 1949.

2.

In these rules (i)the expression the Act" means the Calcutta thika Tenancy Act, 1949;(ii)"section" means a section of the Act.

3.

In determining the compensation under section 4, the Controller shall take into account, the market value of the structure erected by the thika tenant and standing on the holding on the date of the notice given to the thika tenant by the landlord under the said section, including in the case where the thika tenant is compelled to remove his residence or place of business from the holding, the reasonable expenses, if any, incidental to such removal.

4.

(1)An application under section 5 shall contain the following particulars :-(a)the name and place of residence of the applicant-landlord;(b)the name and place of residence of the thika tenant and where the thika tenant is a minor or a person of unsound mind, a statement to that effect;(c)a description of the holding of the thika tenant;(d)the ground or grounds for ejectment, the facts constituting the cause of action and the time when it arose;(e)the date of the notice, under section 4, if any.(2)Every application under sub-rule (1) shall be verified by the applicant in the manner provided in sub-rules (2) and (3) of Rule 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).(3)In making inquiries under section 5, the Controller shall follow, as nearly as may be, the procedure laid down in the Code of Civil Procedure, 1908, for the trial of suits :Provided that it shall not be necessary to record the evidence of witnesses any further than recording a memorandum of the substance only of such evidence as in unappealable cases.

5.

A landlord desirous of obtaining the permission of the Controller as required under section 7, shall make an application in writing to the Controller stating fully the reasons therefor and also furnish such other evidence in support of his prayer as the Controller may require.

6.

A notice of the thika tenant's abandonment of his holding under section 9 shall be in Form No. I appended to these rules and shall be filed in the office of the Controller in triplicate, of which one copy shall be affixed in the notice board of the Controller, one copy shall be published upon the holding and the other copy shall be kept in the record.

7.

When rent is paid by postal money order, the money order shall be prepared in the form provided for rent money orders and shall be made payable to the landlord or his authorised 'agent according as rent has previously been paid to the landlord himself or to such agent and at the landlord's local office or at such other place as may be appointed by the landlord for the payment of rent.

8.

The receipt and counterfoil referred to in sub-section (3) of section 15 shall be in Form No. II appended to these rules and shall contain the particulars specified therein.

9.

An application for deposit of rent under section 17 or section 18 shall contain a statement on the grounds on which it is made and shall state in cases (a) and (b) of sub-section (ii) of section 17, the

name of the person to whose credit the deposit is to be entered and the name of his authorised agent, if any, in case (a) of sub-section (1) of section 18, the names of the sharers to whom the rent is due or of so many of them as the thika tenant may be able to specify, and in case (b) of sub-section (1) of section 18 the names of the person to whom the rent was last paid and of the person or persons now claiming it, and shall be signed and verified, in the manner provided in sub-rules (2) and (3) of Rule 15 of Order VI in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908).

10.

For withdrawal of any deposit of rent under sub-section (3) of section 20 of the Act, the landlord shall file through a legal practitioner an application in Form No. II appended to these rules accompanied by the notice if received by the landlord under the said sub-section : Provided that in the case of a deposit below Rs. 100 the landlord, when identified by a legal practitioner may personally file the application.

11.

An application under section 25 shall state the ground or grounds on which the enhancement is claimed and shall be signed and verified in the manner provided in sub-rules (2) and (3) of Rule 15 of Order VI of the First Schedule to the Code of Civil Procedure, 1908.

12.

In making enquiries under the Act, the Controller, the Chief Judge of the Court of Small Causes of Calcutta, the District Judge or the person or persons appointed under sub-section (2) of section 27 shall follow, as nearly as may be, the procedure laid down in the Code of Civil Procedure, 1908, for the trial of suits : Provided that it shall not be necessary to record the evidence of witnesses any further than recording a memorandum of the substance of such evidence as in unappealable cases.

13.

In reviewing orders referred to in sub-section (5) of section 27 as far as may be the procedure laid down in Order XLVII of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), shall be followed and no application for review shall be entertained unless it is made within thirty days from the date of the order for the review of which the application is made.

14.

In the matter of summoning and enforcing the attendance of witnesses and compelling the production of documents referred to in subsection (2) of section 32 the Controller shall, as far as may be, follow the procedure laid down in that behalf in the Code of Civil Procedure, 1908, with such modifications therein as the circumstances may require.

15.

All notices shall be served by registered post with acknowledgement due, or where this cannot be effected or is not feasible, in such manner as the Controller may deem fit in the circumstances of the case.

16.

In Calcutta, fees for copies shall be payable as follows :-(a)The fee chargeable in respect of a certified copy of any application, written statement or other document shall be Rs. 1 each, provided that when application is made at the same time for certified copies of the application, the written statement and any order of the same case, there shall be charged a consolidated fee of Rs. 1-8 for all of them.(b)The fee chargeable for a certified copy of notes of evidence and of the judgment shall be Re. 1 each, plus six annas for each folio of 90 words or part thereof; provided that when an application is made at the same time for certified copies of notes of evidence, judgment and proceedings of the same case there shall be charged a consolidated fee of Rs. 1-8 together with the charge of six annas for each folio of 90 words or part thereof.(c)The fee chargeable for uncertified copies in respect of notes of evidence or judgment shall be six annas only for each folio of 90 words or part thereof.(d)In the case of an urgent application for copies, an expedition fee of Rs. 1 shall be payable in addition to fees specified above.

17.

In areas outside Calcutta, the rules in the Bengal Records Manual shall be followed in the matter of fees for granting copies of records.

18.

In respect of each application for information regarding deposits or for duplicate copies of notices not received by landlords, searching fees shall be levied according to the following scales :-(i)For deposits made during one month or part Rs. 1.(ii)For deposits made during more than one month (a)for the first month Rs. 1,(b)for each subsequent month or part thereof-8 annas.

19.

A searching fee of four annas shall be payable on every application:- (i)for information whether a record is available in the record-room or not :Provided that it shall be necessary to make a separate application with a separate fee in respect of information required in connection with every separate cause or matter;(ii)for inspection of any record :Provided that no fee shall be charged for inspection of records of pending cases by legal practitioners.

20.

In addition to the fees referred to in rule 19, an expedition fee of Rs. 1 shall also be payable on such application for urgent inspection or information.

21.

A process-fee of 8 annas only for each party on which a notice is to be served shall be paid with an application under proviso (it) to section 4, section 5, section 7, sub-section (3) of section 9, section 16, section 25 or section 26.

22.

An affidavit sworn before the Controller shall be charged for at Rs. 2 payable in non-judicial stamps.

23.

In cases where the Appellate authority considers it necessary to take evidence and to serve notice on any person or persons for the purpose of an appeal, a process-fee of 8 annas only for each party on which such notice is to be served shall be paid by the appellant on demand by the Appellate authority.

24.

The fees and process-fees referred to in these rules except rule 22 shall be paid in court-fee stamps. Form No. I (See rule 6) Notice under sub-section (2) of section 9 of the Calcutta thika Tenancy Act, 1949, by landlord for re-entry on abandonment of thika tenant's holding To The Controller, Whereas the holding mentioned below, and hitherto held by.....
....., resident of has been abandoned by him without notice to me and without arranging for the payment of rent thereof, I hereby notify that I have treated the holding as abandoned, and that 173m about to re-enter upon it accordingly. Dated..... Landlord Description of the holding. Form No. II (See rule 8)
) Form of receipt and of the counterfoil referred to in sub-section (3) of section 15

Particulars of receipt (landlord's portion)	Particulars of receipt (tenant's portion)	
1. Serial No. of receipt.	Serial No. of receipt.	
2. Municipal holding No. and other particulars, if any.	Municipal holding No. and other particulars, if any.	
3. (a)	Name of the estate (a)	Name of the estate

	andtauziNo. to which the landappertains, and	andtauziNo. to which the landappertains, and
(b) (If the landlords are not the proprietors) name, if any, of the tenure or holding of the landlords.	(c) (If the landlords are not the proprietors) name, if any, of the tenure or holding of the landlords.	
4. Name or names of the land-lord or landlords and the nature of their interest.	Name or names of the land-lord or landlords and the nature of their interest.	
5. thika tenant's name.	thika tenant's name.	
6. Particulars of the tenure or holding for which rent is paid,—	Particulars of the tenure or holding for which rent is paid,—	
(a) Serial No. of the landlord's rent-roll, and if a record-of-rights has been prepared, serial No. of the tenancy init.	(a) Serial No. of the landlord's rent-roll, and if a record-of-rights has been prepared, serial No. of the tenancy init.	
(b) Area.	(b) Area.	
(c) Rent.	(c) Rent.	
7. The amount of rent; specifying the period for which it is paid.	The amount of rent; specifying the period for which it is paid.	
8. Date of payment.	Date of payment.	
9. Signature of landlord or his authorised agent.	Signature of landlord or his authorised agent.	

Form No. III(See rule 10)Application for withdrawal of deposit of rent under sub-section (3) of section 20 of the Calcutta thika Tenancy Act, 1949Before the Controller.....(Name)....., landlord-applicant,versus(Name)....., thika, tenant-depositorPraying that the above named landlord be allowed to withdraw the amount of rent as per following deposit, the other particulars of which are given in the annexure.Re : Rent for the month ofChallan No.....Deposit No.....Rs.(Rupees.....)Applicant-landlordOrPleader for applicant-landlordDated.....Annexure to Form ,No. II

Part I – (to be filled in by the applicant)

Name and address of applicant	Name and address of the landlord to whose credit the rent was deposited.	Name and address of the Thika tenant on whose behalf the rent was deposited.	Specification of the holding of the thika tenant and the period .	Amount of rent with controller, number and date of the original deposit.	Remarks
1	2	3	4	5	6

.....Signature of applicant. Date.....19