



## Obstruction From Entering

A guide on what to do if you are being prevented, by your landlord, from entering your home.

📞 To get this guide on WhatsApp, message "Obstruction from entering" to **064 721 0958** (tel:0647210958)

### 🔔 Know your rights

- 🔗 Section 26(3) of the Constitution (<http://myconstitution.co.za/en/02.html#housing>) states that "No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances." Everyone in South Africa has the right to access to adequate housing.
- 🔗 The Prevention of Illegal Eviction From and Unlawful Occupation of Land Act 19 of 1998 (PIE) ([https://www.acts.co.za/prevention-of-illegal-eviction-from-and-unlawful-occupation-of-land-act-1998/notice\\_no\\_\\_789\\_of\\_1998](https://www.acts.co.za/prevention-of-illegal-eviction-from-and-unlawful-occupation-of-land-act-1998/notice_no__789_of_1998)) act sets out the procedure and requirements to be followed in a lawful eviction. It also sets out the circumstances that the Magistrate should consider before ordering an eviction.
- 🔗 A landlord or land owner cannot intimidate you to leave the property or force you to move out. This is illegal in terms of the Constitution (<http://myconstitution.co.za/en/02.html#housing>), PIE Act ([https://www.acts.co.za/prevention-of-illegal-eviction-from-and-unlawful-occupation-of-land-act-1998/notice\\_no\\_\\_789\\_of\\_1998](https://www.acts.co.za/prevention-of-illegal-eviction-from-and-unlawful-occupation-of-land-act-1998/notice_no__789_of_1998)), The Rental Housing Act (<https://www.acts.co.za/rental-housing-act-1999/index.html>) and the Unfair Practice Regulations.

## 1 Take pictures and keep a record of how you are being stopped from entering the property



### Who is this for?

If you are being prevented from entering your home, follow these steps.

### 🔔 What you need to know

- 🔔 A land owner or landlord may try to prevent you from entering your home to force you to leave. This is known to be "obstructing you from entering".
- 🔔 This could happen by them putting a security guard at the entrance, or even by using bricks or a gate.
- 🔔 A landlord might also change the locks to your home.
- ⚠️ **This is illegal!**
- 🔔 Whenever something is done to force you out of your property without a court order, this is called a constructive eviction.
- 🔔 Sometimes landlords or landowners force you to leave by cutting off services, locking you out, sending you threatening SMSes, or sending someone to scare you.
- 🔔 A landlord or land owner cannot intimidate you to leave the property or force you to move out.
- 🔗 This is illegal in terms of the Constitution, PIE Act, The Rental Housing Act and the Unfair Practice Regulations.

## 2 File a Spoliation Order



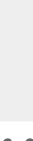
### Who is this for?

If you have taken pictures and documented being blocked from entering your home, proceed with the next step.

### 🔔 What you need to know

- 🔔 A Spoliation Order will order your landlord or the owner to let you back into the property immediately. You can do this by seeking urgent legal assistance or go to the Rental Housing Tribunal and explain your urgent complaint.
- 🔔 Even if you get a Spoliation Order to return to your home or you have a service returned to your home, this does not stop a landlord from then deciding to start or continue with a lawful eviction process against you where they follow all the legal steps.
- 🔗 You can find a list of organisations who can help with legal assistance, in the last step.
- 🔔 Western Cape Housing Tribunal Details:  
([https://www.westerncape.gov.za/dept/human-settlements/documents/public\\_info/R/20201](https://www.westerncape.gov.za/dept/human-settlements/documents/public_info/R/20201))
  - 📍 Department of Housing  
27 Wale Street  
Ground Floor  
Cape Town
  - ✉️ The Western Cape Rental Housing Tribunal  
Private Bag X9083  
Cape Town  
8000
  - ☎️ 0860 106 166 (tel:0860106166)
  - 📠 0860 106 166
  - ✉️ [rht.enquiries@westerncape.gov.za](mailto:rht.enquiries@westerncape.gov.za)  
(mailto:rht.enquiries@westerncape.gov.za)
  - 📄 Complaint form  
([https://www.westerncape.gov.za/other/2003/annexure\\_a.pdf](https://www.westerncape.gov.za/other/2003/annexure_a.pdf))

## 3 Report your unlawful eviction to the police, and file an affidavit



### Who is this for?

If you haven't yet filed a Spoliation order, do so now and then return to this step.

### 🔔 What you need to know

- 🔗 ??

## 4 Fill in a complaint form for an Unfair Practice by your landlord at the Rental Housing Tribunal



### Who is this for?

You have received a Section 4(2) notice and should now take action on the next step

### 🔔 What you need to know

- 🔔 The tribunal function is to settle disputes between tenants and landlords.

- 🔔 It comprises of five members (including a chair and vice chairperson) appointed by the Provincial Minister of Human Settlements, who each have expertise in property management, housing development and consumer matters pertaining to rental housing.

## 5 Who can provide legal assistance?



### Who is this for?

If you need assistance with this process, read on to see who can help out.

### 🔔 Organisations who can assist

- 👥 Legal Resources Centre (<http://lrc.org.za/>)
  - 📍 54 Shortmarket Street  
Greenmarket Square  
Cape Town
  - ☎️ 021 481 3000 (tel:0214813000)
- 👥 Cape Law Society (<http://capelawsoc.law.za/>)
  - 📍 2 Riebeek Street  
Cape Town
  - ☎️ 021 443 6700 (tel:0214436700 )
- 👥 Cape Town Legal Aid ([http://www.legal-aid.co.za/?page\\_id=424](http://www.legal-aid.co.za/?page_id=424))
  - 📍 5 Church Street  
Zonnebloem  
Cape Town
  - ☎️ 021 426 4126 (tel:0214264126)
- 👥 Ndifuna Ukwazi (<http://nu.org.za/>)
  - 📍 18 Roeland Street  
Cape Town
  - ☎️ 021 012 5094 (tel:0210125094)