

R.M.M. Law College, Saharsa

Pt. Lecturer- KESHAV KUMAR SHRIVASTAVA

L.L.B Part- 3rd

Subject- Bihar Tenancy Act

Paper- 4th

Date- 17/08/2020

Topic- When can a tenant deposit rent in court?

Deposit of Rent:

A tenant can deposit rent in Court in three contingencies. The first is when suit for his eviction is instituted on the ground of default in payment of rent. It is a sort of last opportunity to avoid eviction.

The second is before the institution of suit for eviction by the landlord, in case landlord refuses to accept rent . The third is for avoiding striking off defence .

A.In suit for eviction, to protect possession:

Some R.C. Acts provide that if the tenant in a suit for eviction on the ground of default in payment of rent deposits entire arrears along with interest and cost of suit (proceedings) on the first date of hearing (or such extended date which is permitted by the relevant provision of the particular Act) then he may be relieved of his liability to eviction

A(i) First date of hearing:

Normally first hearing or first date/ day of hearing means the first date on which the Court applies its mind to the pleadings which is the date on which issues are framed

A(ii) Excess deposit under one head, adjusted under other head:

It has been held that if some amount is deposited in excess under one head the same can be adjusted towards the shortfall of an amount under any other head.”

A(iii) Time barred rent to be deposited:

Act has been held that the ground of eviction provided under section to the effect that ‘ where the amount of two month’s rent lawfully payable by the tenant and due from him is in arrears’ covers time barred rent also.

A (iv) First date of hearing after dismissal in default and restoration:

If suit is decreed ex parte and thereafter restored then the first date fixed after restoration is the first date of hearing . The reason is that if

defendant has not appeared and his written statement is not on record then Court cannot apply its mind to the controversy. However if defendant appears and thereafter suit is decreed ex parte due to subsequent non-appearance of the defendant then the date fixed after restoration will not be first date of hearing for the purpose of deposit if first date of hearing had already arrived before the suit was decreed ex-parte and complete deposit was not made on the said date.

A(v) Payment / tender/ deposit by someone other than the tenant:

Payment, tender (or deposit) of rent by son or any other family member of the tenant on behalf of the tenant is valid and absolves the tenant of the liability . In the said case the landlord had alleged that the father had sublet the premises to his son. However the son categorically stated that he had deposited the rent on behalf of his father.

A(vi) Time to deposit cannot be extended:

Act does not apply and delay in making deposit cannot be condoned. However if some R.C. Act grants power to the Court/ authority (Rent Controller) then the delay may be condoned. If power to condone is circumscribed then delay in making deposit may be condoned only for the period provided under the relevant section of the particular Act

A(vii) Deposit under Section 30(2) U.P.R.C. Act also to be adjusted:

Under section 20(4) of U.P.R.C. Act, due to inadvertence, sub Section (2) of Section 30 is not mentioned. However while making deposit under Section 20(4) the tenant is entitled to deduct any amount deposited either under subsection (1) or subsection (2) of Section 30 .

B. Deposit of Rent in Court if landlord refuses to accept:

Section 30 of U.P. R.C. Act is quoted below:

“S.30. **Deposit of rent in Court in certain circumstances.**

(1) If any person claiming to be a tenant of a building tenders any amount as rent in respect of the building to its alleged landlord and the alleged landlord refuses to accept the same then the former may deposit such amount in the prescribed manner and continue to deposit any rent which he alleges to be due for any subsequent period in respect of such building until the landlord in the meantime signifies by notice in writing to the tenant his willingness to accept it.

(2) Where any bonafide doubt or dispute has arisen as to the person who is entitled to receive any rent in respect of any building, the tenant may likewise deposit the rent stating the circumstances under which such deposit is made and may, until such doubt has been removed or such dispute has been settled by the decision of any competent court or by settlement between the parties, continue to deposit the rent that may subsequently become due in respect of such building.

(3) The deposit referred to in subsection (1), or subsection (2) shall be made in the Court of the Munsif having jurisdiction.

(4) On any deposit being made under subsection (1), the Court shall cause a notice of the deposit to be served on the alleged landlord, and the amount of deposit may be withdrawn by that person on application made by him to the Court in that behalf.

(5) On a deposit being made under subsection (2), the Court shall cause notice of the deposit to be served on the person or persons concerned and hold the amount of the deposit for the benefit of the person who may be found entitled to it by any competent court or by a settlement between the parties and the same shall be payable to such person.

(6) In respect of a deposit made as aforesaid, it shall be deemed that the person depositing it has paid it on the date of such deposit to the person in whose favour it is deposited in the case referred to in subsection (1) or to the landlord in the case referred to in subsection (2).

C. Regular deposit in suit for eviction:

Under various R.C. Acts it is provided that in a suit for eviction on the ground of default in payment of rent tenant must pay/ deposit entire arrears of rent and shall continue to deposit monthly rent failing which his defence will be struck off; however, if he has made requisite deposit then decree for eviction on the ground of default in payment of rent will not be passed

The End