

21.06.08

7 Deputy M. Tadier of the Minister for Housing and Communities regarding cases brought to court under the Residential Tenancy (Jersey) Law 2011. (OQ.133/2021):

Will the Minister state how many cases have been brought to court to date under the Residential Tenancy (Jersey) Law 2011 in which landlords have pursued legal action against tenants; and how many cases have involved tenants pursuing legal action against landlords during this same period?

Deputy R. Labey of St. Helier (The Minister for Housing and Communities):

The question that is now on the Order Paper and was originally directed to the Attorney General before being redirected to me asks how many cases under the Residential Tenancy Law have been brought to court by private parties. The question was originally submitted asking how many cases have been brought to the Royal Court and that was changed on Friday. The question asks for information going back to the inception of the law over many years. The information is not held in a format that can easily be searched and would take significant time to collate. I can however confirm the following volumes. In 2017, 33 contested cases recorded in tenancy issues. In 2018, 25 contested recorded in tenancy issues. In 2019, 51, and in 2020 zero. The statistics available do not differentiate between cases brought by landlord or by tenant.

3.7.1 Deputy M. Tadier:

I thank the Minister for the answer. I am surprised that he has given it because I was asked this morning to withdraw my question given saying that the Minister did not have any information. I think what he has given is a start. So can I ask that he will provide a breakdown and seek further detail? This after all is a law that is administered, it comes under his departmental remit. I would have thought it would be of interest to him to know how the relatively new law is settling in and whether or not, as I believe is the case, there is an asymmetry in the way that the law is used, which favours very much landlords pursuing action against tenants. But tenants do not have the same power, from my experience, when it comes to the court supporting them in any cases they may have legitimately against their landlord. So would the new Minister for Housing and Communities undertake as a matter of urgency to get these statistics and to look into the workings of that law?

Deputy R. Labey:

The operation of the court is outside of my ministerial control, quite properly. I am reasonably picking up on the administration reporting that was put in place by my predecessors and as such I have not received any regular reporting on the activities of private landlords and tenants, which result in court action. But I will undertake to get more information of the kind that the Deputy is seeking. It might be very difficult and take a lot of time but I will undertake to investigate further. I do take his point and I can tell him that very early on in my tenure I discovered that the Residential Tenancy (Jersey) Law 2011 is wholly inadequate and full of holes and I can go through those with him if he wants me to. But I have taken action to have that reviewed, examined, and with a view to giving law drafting instructions to improve that law.

3.7.2 Deputy R.J. Ward:

Part of what I was going to ask has just been addressed. I was going to ask the Minister whether he feels that there is any way of seeing the success of that law in action in terms of its outcomes and what would be the timescale for reviewing that and bringing a more appropriate perhaps and more successful protection for tenants and landlords under that Tenancy Law. Because it does seem to not be working.

Deputy R. Labey:

My timeframe is by the end of 2021): for a review of the Residential Tenancy (Jersey) Law. It is happening now. The fact is it does not give adequate breadth of protection to tenants. The definition of “tenant” needs to be amended to bring more tenancies in scope. For example, a tenant who does not have exclusive use of facilities, bathroom and kitchen, has no protection under the law. A tenant who has a fixed-term tenancy agreement, fixed start and end date, has no protection and therefore subject to the full terms of any lease, whether reasonable or not. There is a longer list, which I can expand on if prompted.

3.7.3 Deputy R.J. Ward:

Following a review, another review, what timescale for an action to change the law and protect people and subsequently change lives?

Deputy R. Labey:

I am taking action by having all the holes in the current Residential Tenancy Law brought to the fore and redrafted. I will hope to come back before the end of 2021): with the new law.

3.7.4 Senator S.Y. Mézec:

The question refers to cases being brought to the Royal Court. Does the Minister think that is an adequate route for tenants to challenge landlords if they think contracts are being breached? Does he think that a more appropriate dispute resolution pathway would be a better step than full court action, which of course can be something that people without agency or with less power in such a relationship will be less keen to go by?

Deputy R. Labey:

The question is not about the Royal Court. It was changed to just “the courts” because most of these actions are taken in the Magistrate’s Court or the Petty Debts Court. The court-directed guidance on evictions continues to apply and the Government has published this guidance online, which is there to ensure that tenants and landlords know their rights and responsibilities. For example, there is a requirement by landlords to ensure that they have engaged with tenants to try to exhaust all avenues that fall short of eviction prior to approaching the court. The courts have power to ensure that all evictions are lawful.

3.7.5 Senator S.Y. Mézec:

Does the Minister believe that having some specific body for resolving disputes under the Residential Tenancy Law could be a helpful thing? Perhaps some sort of tribunal system, a tribunal system for renters. Perhaps even a rent tribunal could be an appropriate way of ensuring that those in residential tenancies have a clear pathway for having those disputes resolved and one that is accessible to them in a way that courts often are not?

Deputy R. Labey:

The Senator has a good point. We have launched the Housing Advisory Service. When I say “launched”, soft launched, and it is operational at the moment. We will be launching it properly very, very soon.

[11:00]

That advice service is there to help people as early in the situation as possible before things get desperate to help them with advice and get their complaint or their difficulty directed to the right place. Of course, coming on from that, we have the homelessness plan and a desire to set up a complex needs team as part of that, which will also help.

3.7.6 Deputy G.P. Southern:

I believe I heard the Minister say that he was going to review the tenancy laws. But then he appeared to have the same date for bringing action to the States. Could he clarify please?

Deputy R. Labey:

Here is where we are, to Deputy Southern. So it was about 14 days into my tenure that I started to look at the Residential Tenancy Law and was made aware of where it is failing. As I say, there is a long list here, which I will not have the time to read. But it is not offering the protections that it should and some people do not fall under the protection at all. So that is being worked on as we speak. I will update the Assembly as and when I can on a timescale. But, as I say, I do want to do it as a matter of urgency. It is one of the first actions that I did action. I am determined to see it through in as speedily a way as possible.

3.7.7 Deputy G.P. Southern:

Being worked on is a very vague phrase. When will he return to this Assembly with some concrete proposals on ameliorating our tenancy laws?

Deputy R. Labey:

Before the end of this year.

3.7.8 Deputy M. Tadier:

I would ask the Minister, before he throws the baby out with the bathwater, so to speak, that we do have a law, which has many good points in it. I would point him to Article 16 of the law, which in fact gives the court, and it was not me who wrote "the Royal Court", I think that was an administrative error. It is the grant to the Petty Debts Court, which deals with these issues. It gives the court a wide jurisdiction including that the court may rule and award or order damages where there has been a breach of the Residential Tenancy Law. But the problem here is that, although they will routinely award damages where there has been a breach by the tenant to the landlord, they do not seem to be willing, in my experience, to award damages to the tenant where there has been that breach of the landlord. I have heard it myself as a McKenzie Friend accompanying a constituent where they say: "We do not think we have the jurisdiction to do that." Where clearly the court does have the jurisdiction to do that. So the question is: would the Minister sit down, as he is being requested by myself and my constituent, to hear from somebody who has been on the sharp end of being made homeless through no fault of her own to see what the problems are and how the Residential Tenancy Law could and should be used?

Deputy R. Labey:

Yes, and I am very happy to consult with the Deputy going forward on this.