

For discussion
on 24 May 2004

Panel on Administration of Justice and Legal Services

Court procedure for repossession of premises

Background

At the meeting of the LegCo AJLS Panel on 29 January 2004, the Judiciary Administrator briefed Members on the impact of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 and measures to streamline the court procedure for repossession of premises, including the introduction of callover hearings in the Lands Tribunal for repossession cases. This paper reports on the progress in the improvement measures.

Callover hearings

2. The Lands Tribunal has set aside one day every week since 5 January 2004 for a court to deal exclusively with repossession cases in the form of callover hearings. A large number of cases (between 15 to 20) are listed for the assigned day and simple non-contested cases are disposed of immediately. More complicated cases will be adjourned to follow the regular listing schedule.

3. The new listing practice has helped to shorten waiting time from the date of application for repossession to the date of first hearing in spite of an increased caseload. In the first quarter of 2004, there were 1601 applications for repossession, an increase of about 10% over the quarterly average in 2003. The waiting time was, however, reduced from 45 days in 2003 to 40 days.

4. When the callover arrangement was started, it was estimated that about 80% of the cases could be disposed of at the callover hearings. That estimate proved to be realistic as the disposal rate was about 84% for the first four months of operation.

5. The Panel suggested at its meeting in January 2004 that to further expedite the disposal of repossession cases, the Judiciary could consider assigning a specific time slot on a daily basis for callover hearings. Such concept is indeed being practised to some extent as repossession cases are listed for callover hearings on other days whenever there are vacant slots in a court's

diary. In the month of April, for example, callover hearings were listed for an extra 3 days. In view of the present stable caseload of pending repossession cases and the need to balance the interests of parties in “non-repossession” cases before the Lands Tribunal, the Judiciary considers that there is no need to deviate too much from the current arrangements.

6. The Panel also suggested that consideration be given to allowing landlords applying for repossession to elect to have their cases dealt with either by way of a callover hearing or a formal hearing. The Judiciary is of the view that with such a high percentage of cases being disposed of at callover hearings, as set out in paragraphs 4 above, the proposed option would not bring any significant benefit to the applicants.

Execution of Writs of Possession

7. At the meeting on 29 January 2004, Members were informed that the average waiting time for Writs of Possession to be executed by Bailiffs was 25 days in 2003. Such performance has been sustained in the first quarter of 2004, although the number of Writs of Possession has slightly increased during this period over the quarterly average in 2003 (i.e. 1283 and 1226 respectively).

Further measures to shorten the repossession procedure

(a) Processing of applications for default judgment

8. At present, the number of repossession cases disposed of by way of default judgment is about 8 times those dealt with by hearing. The time for processing such applications is about 10 days on average.

9. The procedure starts with the applicant making an application for default judgment under Rule 15 of the Lands Tribunal Rules when the defendant fails to file a Notice of Opposition within 14 days of service of the Notice of Application. Evidence consisting tenancy agreement, information on arrears of rent, demand notes for rates, management fees, electricity, etc. are also submitted. On receipt of the application, the registry of the Lands Tribunal will check whether there is indeed no Notice of Opposition, the evidence received as well as the service of the originating application. The Deputy Registry will do a re-checking before he endorses the application. The applicant will then be notified by letter of the outcome of his application.

10. The Judiciary Administration is seeking to shorten the processing time through further procedure reviews and staffing re-deployment within the

Lands Tribunal in the near future, with a view to reducing it to 7 days if the caseload remains steady.

(b) Review of the Lands Tribunal Rules

11. At the meeting in January 2004, the Panel suggested that the Lands Tribunal should grant a default order for repossession right away if the defendant had not filed a notice of opposition within the time limit.

12. The Chief Justice has directed that the Lands Tribunal Rules as a whole should be reviewed. Further opportunities to shorten the time taken for repossession procedures in the Lands Tribunal, including the suggestion from Members, will be explored. Members will be formally consulted when the review is completed and amendments to the Lands Tribunal Rules are proposed.

Judiciary Administration
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