

Two landlords of subdivided units under regulated tenancy convicted of contravening relevant statutory requirements

Two landlords of subdivided units (SDUs) contravening Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (the Ordinance) pleaded guilty and were fined today (August 4) at the Eastern Magistrates' Courts respectively under the Ordinance. The first landlord failed to submit Form AR2 to the Commissioner of Rating and Valuation (the Commissioner) within 60 days after the term of the regulated tenancy commenced. The landlord pleaded guilty for three offences today and was fined a total of \$2,700. The second landlord, in addition to failing to submit Form AR2 in accordance with the above-mentioned statutory requirement, also requested the tenant to pay deposits for water and electricity charges which were not permitted under the Ordinance. The second landlord pleaded guilty for nine offences and was fined a total of \$12,500. Since the Ordinance has come into force, six SDU landlords have been convicted of contravening the Ordinance.

In January 2023, the Rating and Valuation Department (RVD) discovered that the first landlord mentioned above was suspected of failing to submit Form AR2 in accordance with the relevant statutory requirement, despite having been issued a warning letter by the RVD earlier for the same contravention. After in-depth investigation and collection of evidence, the RVD prosecuted against the landlord. Separately, upon learning a case where a landlord was convicted of water overcharging which contravened the Waterworks Regulations, the RVD proactively conducted a site visit to the subject SDU in February 2023 and collected the relevant tenancy particulars from the landlord (i.e. the second landlord mentioned above). After in-depth investigation and collection of evidence, the RVD found that the landlord was suspected of contravening two requirements under the Ordinance, and hence prosecuted against the landlord.

Pursuant to Section 120AAZL of the Ordinance, if a landlord of a regulated tenancy requests the tenant to pay, or otherwise receives from the tenant any money in relation to the tenancy other than the types of: specified rents; specified rental deposits; reimbursement of charges for any of the specified utilities and services payable by the tenant; and damages for the tenant's breach of the tenancy, the landlord commits an offence and is liable to a fine at level 3 (\$10,000), and on a second or subsequent conviction to a fine at level 4 (\$25,000).

In addition, pursuant to Section 120AAZT of the Ordinance, the landlord of a regulated tenancy must submit a completed Form AR2 to the Commissioner to notify the particulars of the tenancy within 60 days after the term of the regulated tenancy commenced. A landlord who refuses or neglects to comply with the above requirements without reasonable excuse commits an offence and

is liable to a fine at level 3 (\$10,000), and in the case of a continuing offence, to a further fine of \$200 for each day during which the offence continues.

A spokesman for the RVD hopes that these two convictions will send a strong message to SDU landlords that they must comply with the relevant requirements under the Ordinance, and also reminds SDU tenants of their rights under the Ordinance. Meanwhile, the case where the second landlord mentioned above was convicted of contravening both the Waterworks Regulations and the Ordinance demonstrates the effectiveness of interdepartmental co-operation between the RVD and the Water Services Department.

Apart from following up on reported cases, the RVD has been adopting a multipronged approach with close liaison with other departments to proactively identify, investigate and follow up on cases concerning landlords who are suspected of contravening the Ordinance. To this end, the RVD has started to proactively require landlords of regulated tenancies to provide information and reference documents of their tenancies for checking whether the landlords concerned have complied with the requirements of the Ordinance. If a landlord, without reasonable excuse, refuses to provide the relevant information or neglects the RVD's request, the landlord commits an offence and is liable to a fine at level 3 (10,000) and to imprisonment for three months. Moreover, the RVD has provided a simple form (Form AR3) since April 2023 to help tenants of regulated tenancies who have not yet received a copy of endorsed Form AR2 to provide the basic tenancy particulars to the RVD by electronic means or in paper form, so as to enquire whether the RVD has received the relevant Form AR2 for the department's follow-up as appropriate. If any contraventions are found, the RVD will seriously look into the cases.

The RVD spokesman also appeals to members of the public to come forward and report to the RVD promptly any suspected cases of contravening the relevant requirements. This would help curb illegal acts as soon as possible. Reporting can be made through the telephone hotline (2150 8303), by email (enquiries@rvd.gov.hk), by fax (2116 4920), by post (15/F, Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon), or in-person (please call 2150 8303 to make an appointment with the Tenancy Services Section of the RVD before visiting its office at Room 3816-22, 38/F, Immigration Tower, 7 Gloucester Road, Wan Chai).

For enquiries related to regulated tenancy, please call the above telephone hotline or visit the RVD's webpage (www.rvd.gov.hk/en/our_services/part_iva.html) for the relevant information.