

KNOW_{the} LAW

The superior newsletter from Clientèle Legal

TRUE STORY



Renshley Titus – Actual client

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“MY LAWYER SAVED ME FROM A DODGY HOLIDAY CLUB MEMBERSHIP.”

Renshley Titus and his wife were enjoying their honeymoon on the beach when they got the opportunity to win fantastic prizes. The prizes included a putt-putt voucher, a dream holiday anywhere in the world and a sunset boat ride for two. “For people on honeymoon, this was a lovely surprise and wedding gift,” Renshley recalls. “But when we went to the office to claim our prize, things were not what they appeared to be. We had to sit for an hour and watched a presentation. All we ended up with was a holiday club contract and one voucher for accommodation. They did not even give us the putt-putt voucher. They said they were out of stock!”

A disgruntled Renshley decided to cancel the contract a week later, but the sales agent informed him that he could not, as he fell outside the 5 day cancellation period. “He said this was a membership for life. I was furious.”

Marolene Breed, a Legal Advisor from Clientèle Legal says this is a relatively common occurrence. “People are offered great prizes and magical holidays, but they don’t realise that you end up paying for the ‘free’ gifts – for life. Up until April 2011, it was possible by law for timeshare arrangements to be legally binding into perpetuity, but Section 14 of the Consumer Protection Act changed that. After that, consumer agreements may not exceed

a maximum duration of 24 months. It provides real protection for consumers.”

In addition, Section 14 provides that a consumer may terminate a fixed term agreement at any time before the expiry date by giving 20 business days notice of termination. However, in the event of early termination by the consumer, the supplier may levy a ‘reasonable’ termination fee. The fee may be based on the amount the consumer is still liable for, the value of the goods that are returned to the supplier, losses that might have been incurred by the consumer, or the reasonable potential for the service provider to find an alternative.

Renshley says he was very happy with the service from Clientèle Legal. “The holiday club tried to give us the runaround. Clientèle took no nonsense from these people. The membership was cancelled in no time. For me, it is not just about the money that I saved, it is about justice. I feel confident that there is justice in South Africa. Pick up the phone and call Clientèle Legal.”

Marolene Breed cautions people to never sign anything if they feel pressured or are in an emotional state. “Unscrupulous service providers target people who either don’t understand or are in an emotionally vulnerable state and promise them the world. If you happen to fall victim to such tactics, contact your lawyer at Clientèle Legal and get the matter resolved.”



Lawyer’s Tip

‘Always read the paperwork carefully.
Get your lawyer to check it as well.’



Marolene Breed: Legal Advisor



Clientèle
LEGAL

Your Questions Answered

Email your questions to:
knowthelaw@clientelelegal.co.za

Q

CAN A STORE OWNER REMOVE MY PROPERTY IF I MISSED A PAYMENT?



A

No, they can't. Only a Sheriff of the Court can physically repossess property, but that does not mean you can default on payments or that goods may not be repossessed. It simply means due process has to take place and a court order has to be granted.

Once the court order has been granted, the creditor is required to hand a copy of the order to the Sheriff of the Court. The Sheriff is the only legally entitled person to physically repossess property. If the person showing up at your house trying to repossess property cannot show identification that they are a Sheriff of the Court and do not have a writ of execution, the debtor is not legally obligated to hand over the goods. You may firmly, but politely, refuse to hand over the goods.

Q

CAN MY RECRUITMENT AGENCY ASK FOR REPLACEMENT FEES?

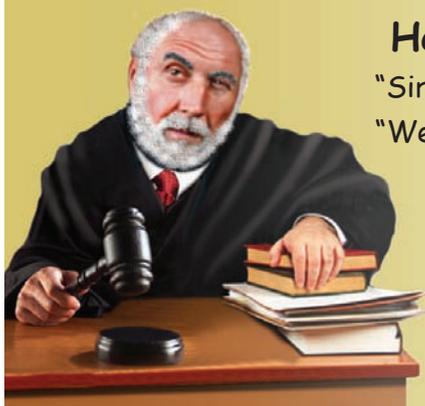


A

No, they can't. Up until 9 August 2015, when you entered into an agreement with an employment agency, they often made provision for a 'replacement fee' in the contract. This means that, should you resign or get dismissed within a certain period of time, you would have had to pay the agency a replacement fee, as they would have to bear the costs of replacing you.

Since the Employment Services Act came into effect, it made such payment unlawful and employment agencies were prohibited from charging work seekers any fees for services rendered. This Act gives the employee additional benefits and will take steps to prevent employers from trying to circumvent the Act and deduct the placement fee from the employee.

THE LIGHTER SIDE



Heard in Court
"Sir, what is your IQ?"
"Well, I can see pretty well, I think."



"No, you can't sue Santa for bringing you too few gifts."

KNOW YOUR RIGHTS



ARRESTED? NEED BAIL MONEY? WHO ARE YOU GOING TO CALL?

Imagine the feel of cold, hard steel on your wrists. Flashing sirens as you are led away. The cell door makes a loud 'thunk' as it closes behind you and you join your fellow inmates for the night. You have been arrested. Your family might not know what happened to you. You may not have cash on you and your family may not be able to help. So, what are you going to do? Who are you going to call?

"You are going to call Clientèle Legal," says Sylvester Letshabo from Clientèle Legal. "All Clientèle Legal Plans include a Bail Benefit. Should you be arrested, we will go to the police station and pay the bail for you, up to R3,000." Letshabo says it can get even tougher during holiday season, because family members and prosecutors are on leave and the many public holidays mean you might have to remain in jail until the appropriate people are available. "But clients should not worry, our Bail Benefit is available to you 24 hours a day throughout the holiday season. It is part of making quality legal services convenient and affordable for you." Sylvester says it is important to understand that paying bail does not mean you admitted guilt, nor is it a reflection of the strength or weakness of the State's case. Bail is simply the sum of money paid to the court or to the police in exchange for the accused's release from prison, while justice takes its course.

After the arrest, the accused normally must be brought before a court within 48 hours and he or she might apply to be released on warning or bail if the case is not finalised on that day. "Bail acts as a type of security to secure the accused's attendance at court on the hearing date. If the accused appears in court the bail money must be returned to the accused or the person who paid the bail on behalf of the accused once the matter has been finalised or withdrawn. The bail money must be returned regardless of whether there was a conviction or an acquittal.

"There are various forms of bail which applies to different types of offences," explains Sylvester Letshabo. "That is why it is important to get quality legal advice. Your family and friends might not be able to afford the bail or know how to handle the situation. Keep the number of your lawyer handy." In South Africa, there are 3 forms of bail:

• POLICE BAIL

May be granted by certain police officers if the accused has been arrested for a minor offence, for instance; being intoxicated, public indecency or jaywalking. This excludes, for example, charges of treason, murder, rape, kidnapping, fraud or illicit dealing in precious stones and metals.

• PROSECUTOR BAIL

May be granted by an authorised prosecutor at the police station if the accused has been accused of a schedule 7 offence, such as possession of drugs, homicide, assault, theft and fraud (where the amount does not exceed R20,000).

Every police station has a prosecutor on standby whom should be called for the consideration of granting of bail under these conditions.

• BAIL APPLICATIONS IN COURT

For all other offences, the accused can apply at any stage of the court proceedings when he or she is before court.

"If you are ever arrested, keep your cool and remain polite," says Sylvester Letshabo. "Your attitude might have a bearing on whether or not you are granted bail. You will have to convince the presiding officer that you will attend the court hearings and not run away, are not a danger to other people and will not commit any further crimes. There is a lot of paperwork that will have to be filled in and your Clientèle Legal representative will help with that."

If you have been released on bail, you have to attend court on the specified date until the proceedings are complete otherwise you will be guilty of a further offence and will be liable to a fine or a term of imprisonment not exceeding one year. The court may decide to impose further conditions to the bail, for instance that the accused must report to the police, stay away from a certain place or people or to not tamper with any witness who might later give evidence in a case.

"Being arrested and needing bail money can be harrowing," advises Sylvester Letshabo. "Keep things lawful and avoid the situation in the first place."

SUPERIOR LEGAL SERVICES IN ACTION

The Clientèle
Legal Business
Plan



Professional legal services
for your small and medium
sized business



Whether you are in construction, transport or professional services, we have expert lawyers, specialists and advisors to take care of your legal matters. Our plans are affordable. They are available from R450 per month. Our cover ranges from R170,000 to R500,000 worth of superior legal services per year.

We cover labour matters, debt collection, commercial contracts and civil matters.

You take care of your business, we'll take care of your legal matters.

For more information or a free quote, visit our website at www.clientelelegal.co.za



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Dear Know the Law

"We had a client that owed us money and refused to pay. Clientèle Legal sent a letter of demand and we received full payment."

Highland Movers Pty (Ltd)

"Clientèle Legal handled all my contracts. Not only were they quick, but the service was professional. I highly recommend them."

NM Freight Logistics Pty Ltd

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