

LEGAL ADVICE LANDLORD-TENANT ISSUES

Spell out responsibilities clearly

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Pam has rented a two-storey house from Somchai for five years. One night, a severe storm ravaged the house, breaking several windows and blowing away parts of the roof.

The next morning, 30-year-old Pam called her landlord asking for the house to be repaired. Ten minutes later, both ended up in argument, quarrelling over who should do the fixing and pay for all the expenses.

The sort of storm that happened may not arrive every day, but little storms frequently break out between tenants and landlords when there are any repairs and maintenance to be taken care of. Who is responsible for it?

Under the letter of the law, the rental of a property is a contract whereby a landlord agrees to let a tenant use or benefit from the property for a fixed period of time as agreed in the contract, and by that the tenant agrees to pay rent.

The rental of an immovable asset isn't enforceable by action unless there is some written evidence to that effect signed by the two parties. If there is no written evidence, the rental is enforceable for only three years maximum.

Unless it is agreed in the contract, the tenant cannot sublet or transfer his or her rights to others.

The law further states that the landlord initially is bound to deliver the property in a "good state of repair" to the tenant. When the property needs repair and maintenance for some reason, the landlord is responsible for the repair unless there are matters specified by law or by

contract to be done by the tenant himself.

Meanwhile, the landlord is bound to reimburse the tenant for any necessary and reasonable expenses for the restoration and preservation of the property, except expenses for ordinary maintenance and petty repairs — replacing lightbulbs for example.

Nevertheless, cases are commonly settled according to what written or agreed in the contract in the first place between the two parties, says Thawat Damsa-ard, a partner with the international law firm Tilleke & Gibbins.

"The law will usually be applied when there are no contracts made or nothing about the issue is ever written in the contract," he explains.

For that reason, he says, it's best for both tenant and landlord to put everything down in writing, including repair and maintenance issues and the responsibilities of each party.

"However, these days, most contracts usually state that the tenants will be the ones to repair and maintain the properties, as the landlord is the one holding the higher bargaining power."

Major repairs, which would include a damaged roof since it has a big impact on the value and future resale or rental of the property, would still be the responsibility of the landlord.

The law also says that the tenant can



Thawat: Landlords likely to have the upper hand.

always terminate a contract in a case where the property isn't in a proper condition suitable for renting.

At the same time, the tenant does have some duties and responsibilities. The tenant is bound to take as much care of the rented property as a person would do with his or her own property. If he fails to comply, the landlord has the right to terminate the contract. The tenant is also bound to allow the landlord to inspect the property occasionally.

If the rented property is in need of repair or maintenance, the tenant must allow the landlord to do so

though that may cause the tenant inconvenience. However, if the repair takes an unreasonable length of time and results in the property being unsuitable for residing in, the tenant may terminate the contract.

On top of that, the tenant must not make any alteration or addition to the property unless permission is obtained. A tenant who makes changes without permission is liable to restore the property to its former condition.

The tenant is also liable for any loss or damage done to the property through his or her own fault, unless he or she can prove another cause.

Where rent is concerned, the landlord may terminate the contract if the tenant declines to settle payment. However, landlord is expected to notify the tenant by a minimum of 15 days in advance.