

Legal Protection For Tenants Against Termination Of Rental Based On Law Number 1 Of 2011 Concerning Housing And Residential Areas

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Abstract

Legal protection for tenants in a lease agreement is important to ensure that tenants' rights are not violated by the property owner. Law Number 1 of 2011 concerning Housing and Residential Areas provides a legal basis for the legal relationship between tenants and owners. This article discusses the form of legal protection for tenants and the dispute resolution mechanism in the event of unilateral lease termination. Through a normative legal approach, this study analyzes the legal protection provided to tenants, both in terms of binding regulations and available dispute resolution mechanisms. The results of the study indicate that there is preventive and repressive legal protection for tenants to avoid abuse of rights by property owners. In addition, the role of the government in overseeing the implementation of regulations is also an important factor in ensuring legal certainty for tenants.

Keywords: *Legal protection, tenants, lease termination, Law Number 1 of 2011*

INTRODUCTION

Lease agreements are agreements that often occur in people's lives. However, in practice, tenants often experience legal problems due to unilateral lease termination by the property owner. Therefore, (Wiharti, 2024) legal protection for tenants is an important aspect to discuss from the perspective of housing and settlement law. Housing is a basic human need that must be guaranteed by the state. In everyday life, many individuals or families do not have their own homes and choose to rent housing as an alternative place to live. (Kristiyani & Cornelis, 2023) However, in practice, unilateral lease termination by the property owner often occurs which can be detrimental to the tenant. This problem is made even more complex by the imbalance in bargaining position between the owner and the tenant, who often do not have adequate legal protection (Djaelani, 2023).

Law Number 1 of 2011 concerning Housing and Residential Areas is here to provide legal certainty for the parties in the lease agreement. However, the implementation and effectiveness of this law are still challenges. Therefore, (Romdoni & Fitriasih, 2022) this study aims to analyze the legal protection available to tenants in the face of unilateral lease termination and what legal mechanisms can be taken by tenants to defend their rights? How are the legal regulations regarding tenant protection in Law Number 1 of 2011 concerning Housing and Residential Areas? What are the obstacles faced by tenants in obtaining legal protection when there is a unilateral lease termination?

This problem formulation can help direct your research in analyzing the legal aspects and protection for tenants.

RESEARCH METHODS

The research method used in this study is the normative approach method. This means that this study focuses on the analysis of laws and regulations related to renting, especially Law Number 1 of 2011 concerning Housing and Residential Areas and its derivative regulations. In

addition, this study also analyzes various court decisions related to lease termination disputes to understand how the law is applied in practice.

RESULT AND DISCUSSION

Based on an analysis of Law Number 1 of 2011 and cases that occurred in the field, it was found that legal protection for tenants still faces several obstacles, including (ANTIKA, 2019):

- 1. Lack of Legal Awareness of Tenants** Many tenants do not understand their rights in the rental agreement, so they often accept the landlord's decision without taking adequate legal action.
- 2. Ineffective Implementation of Regulations** Although the law has provided a clear legal basis, its implementation in the field is still weak. Many cases of unilateral lease termination do not receive a fair legal settlement due to the lack of supervision from the authorities.
- 3. Bargaining Position Inequality** Tenants are often in a weaker position than landlords, especially when it comes to contract negotiations. This leaves many tenants with little protection when disputes arise.
- 4. Protracted Dispute Resolution** The dispute resolution mechanism through the courts often takes a long time and is expensive, so many tenants are reluctant to take legal action. As a solution, steps are needed such as increasing legal awareness for tenants, strengthening government supervision, and simplifying the dispute resolution mechanism to make it faster and more effective.

From a legal perspective, protection for tenants is not only regulated in Law Number 1 of 2011, but is also strengthened by the Civil Code (KUHPerdata) in Article 1550 which requires property owners to guarantee the use of property by tenants during the rental period. (Dewi, 2019) In addition, in Law Number 8 of 1999 concerning Consumer Protection, tenants can also be categorized as consumers who have the right to receive protection from detrimental business practices.

To overcome the problems that arise in practice, the implementation of this legal rule needs to be strengthened with a better monitoring mechanism and socialization to the community (SHELEMO, 2023). The government can also develop additional regulations that regulate restrictions related to unilateral lease termination, for example through regional regulations or more specific policies (Dairse, 2009).

As a step forward, there is a need to revise existing regulations to ensure stronger protection for tenants and increased oversight by authorities to ensure effective implementation of the law.

Law Number 1 of 2011 concerning Housing and Residential Areas regulates various aspects related to residential rentals. Some relevant articles include:

Article 135: Prohibits the owner from terminating the contract unilaterally without a valid reason.

Article 147: Establish a mechanism for resolving rental disputes through deliberation to reach consensus.

Article 148: Provides the option of resolving disputes through the courts if deliberation does not achieve the desired results.

Forms of Legal Protection for Tenants:

- 1. Preventive Protection** Tenants have the right to a clear written lease agreement. The government is responsible for supervising and regulating legal certainty in lease transactions.
- 2. Repressive Protection** Tenants can file a lawsuit in court if they experience a unilateral lease termination that is detrimental. Tenants can file an objection to a dispute resolution institution.

Case AnalysisOne relevant case is the decision of the Central Jakarta District Court No. 124/Pdt.G/2020/PN.Jkt.Pst, where an apartment tenant sued the property owner for unilaterally terminating the lease before the end of the contract. In this decision, the court emphasized that unilaterally terminating the lease without warning and without giving the tenant a reasonable time to find a new place to live is a violation of the law. The court ruled that the owner must provide compensation to the tenant as a form of compensation for the losses suffered. This case shows that even though there are legal mechanisms available to tenants, many similar cases still occur due to the tenant's lack of understanding of their rights and the slow legal process in providing effective protection. (Ahmad Dzulkifli Rahmatullah & Muhamad Hasan Sebyar, 2024)As a solution, it is recommended that there be increased supervision by the government, simplification of legal procedures, and legal education for tenants so that they better understand their rights in the rental agreement.

(Indonesia et al., 2009)Based on the findings above, it can be concluded that legal protection for tenants is very necessary to prevent abuse of power by property owners. In practice, strengthening regulations and monitoring systems from the government is very urgent. Tenants also need to be given further understanding of their rights and obligations so that they can fight for their interests in legal lease relations.

In addition, efforts to simplify dispute resolution procedures, both through deliberation and legal channels, need to be made so that tenants do not experience difficulties in obtaining justice. The availability of legal assistance for tenants who cannot afford it is also an important factor in ensuring access to justice for the entire community.

As a step forward, there is a need to revise existing regulations to ensure stronger protection for tenants and increased oversight by authorities to ensure effective implementation of the law(Pipit Mulyah, Dyah Aminatun, Sukma Septian Nasution, Tommy Hastomo, Setiana Sri Wahyuni Sitepu, 2020).

The results of the study show that although legal protection for tenants has been regulated in Law Number 1 of 2011, there are still various obstacles in its implementation. Some of the main findings in this study include:

Imbalance of Legal PositionTenants are often in a weaker position than landlords in lease agreements, especially when it comes to contract negotiations. Many tenants accept leases with clauses that favor landlords without adequate legal protection. This can leave tenants without effective legal means to protect themselves.

Lack of Legal Awareness of TenantsMany tenants do not understand their rights, so they do not know the legal steps that can be taken when a lease is terminated unilaterally. Low legal awareness causes tenants to tend to be passive when faced with unfair actions by property owners. Therefore, further socialization is needed regarding tenant rights and legal mechanisms that can be taken to maintain these rights(Hidayat, 2021).

Ineffectiveness of Law EnforcementAlthough regulations are in place, their implementation in the field is still less than optimal. Many tenants have difficulty taking legal action due to limited funds and complex procedures. Settlement through legal channels often takes a long time and is burdensome for tenants, especially those with economic limitations. The government needs to increase access to legal aid for tenants to ensure more effective protection.

Long Dispute ResolutionThe litigation process is often time-consuming and expensive, making tenants reluctant to take legal action. Alternative dispute resolution through mediation or arbitration can be a solution to reduce the burden of prolonged litigation. However, many tenants are still unaware of out-of-court dispute resolution mechanisms that can speed up the resolution of their problems.

Lack of Government OversightThe local government has an obligation to supervise the implementation of rental regulations so that there are no violations of tenant rights as stipulated

in Article 150 of Law Number 1 of 2011. However, in practice, government supervision of property owners who unilaterally terminate leases is still weak. (Wibowo & Widiyasmoko, 2021) There are many cases where tenants do not receive optimal legal protection due to the lack of action from the authorities.

Comparison with Other Countries Compared to other countries such as Germany and France, legal protection for tenants in Indonesia is still lagging behind. In these countries, there are stricter regulations for property owners and faster court mechanisms in resolving rental disputes. For example, in Germany, there are regulations that require property owners to provide valid reasons before terminating a rental contract, as well as the obligation to provide compensation to tenants who are harmed.

To overcome the problems that arise in practice, the implementation of this legal rule needs to be strengthened with a better monitoring mechanism and socialization to the community. The government can also develop additional regulations that regulate restrictions related to unilateral lease termination, for example through regional regulations or more specific policies.

As a step forward, there needs to be a revision of existing regulations to ensure stronger protection for tenants and increased supervision by authorities to ensure effective implementation of the law. In addition, there needs to be an alternative mechanism for resolving disputes that is faster and more efficient so that tenants are not burdened by long and expensive legal processes.

CONCLUSION

Law Number 1 of 2011 has provided legal protection for tenants so that they are not harmed due to unilateral termination of lease by the property owner. However, effective implementation of the law is still needed to ensure that tenants' rights are maximally protected. Increasing government supervision, socializing tenants' rights, and simplifying dispute resolution mechanisms are important steps in strengthening protection for tenants in Indonesia. In addition, it is necessary to revise existing regulations to adapt to evolving socio-economic conditions, as well as strengthen sanctions for property owners who violate legal provisions. Dispute resolution through mediation or arbitration must also be optimized as a faster and more efficient alternative to lengthy litigation processes. The government and related institutions are expected to be more active in providing legal education to tenants so that they know their rights and obligations in the rental agreement. Thus, a fairer and more balanced legal system can be realized, as well as providing legal certainty for all parties involved in the rental agreement.

REFERENCES

- Ahmad Dzulkifli Rahmatullah, & Muhamad Hasan Sebyar. (2024). Analisis Yuridis Putusan Kasasi Dibawah Ancaman Minimal dalam UU Narkotika. *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik*, 1(3), 170–185. <https://doi.org/10.62383/demokrasi.v1i3.266>
- ANTIKA, A. S. (2019). *Penjatuhan Pidana Di Bawah Minimum Khusus Dalam Perkara Tindak Pidana Korupsi (Studi Kasus Tentang Putusan Mahkamah* 12(4), 291–300. <https://edoc.uui.ac.id/bitstream/handle/123456789/13892/GABUNGAN.pdf?sequence=1&isAllowed=y>
- Dairse. (2009). No Title Формирование парадигмальной теории региональной экономики. *Экономика Региона, Kolisch* 1996, 49–56.

- Dewi, W. P. (2019). Penjatuhan Pidana Penjara Atas Tindak Pidana Narkotika Oleh Hakim Di Bawah Ketentuan Minimum Ditinjau Dari Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika. *Jurnal Hukum Magnum Opus*, 2(1), 55. <https://doi.org/10.30996/jhmo.v2i2.2181>
- Djaelani, M. (2023). Keberatan Pidana Perihal Kepemilikan Narkotika. *Jurnal Supremasi*, 13(35), 98–117. <https://doi.org/10.35457/supremasi.v13i2.3054>
- Hidayat, R. N. (2021). *Tinjauan Yuridis Tindak Pidana Penyalahgunaan Narkotika Di Kabupaten Sidenreng Rappang*. 237, 1–44. http://repository.unissula.ac.id/id/eprint/24766%0Ahttp://repository.unissula.ac.id/24766/1/30301800404_fullpdf.pdf
- Indonesia, U., Hukum, F., & Hukum, P. (2009). *KUALIFIKASI PENGEDAR ATAU PEMAKAI PADA TINDAK PIDANA NARKOTIKA BERDASARKAN UNDANG-UNDANG*.
- Kristiyani, M., & Cornelis, V. I. (2023). Penegakan Hukum Terhadap Pelaku Tindak Pidana Narkotika di Wilayah Hukum Kepolisian Resor Kota Besar Surabaya. *Binamulia Hukum*, 12(1), 201–211. <https://doi.org/10.37893/jbh.v12i1.331>
- Pipit Mulyah, Dyah Aminatun, Sukma Septian Nasution, Tommy Hastomo, Setiana Sri Wahyuni Sitepu, T. (2020). 濟無No Title No Title No Title. *Journal GEEJ*, 7(2).
- Romdoni, M., & Fitriasih, S. (2022). Disparitas Pemidanaan Dalam Kasus Tindak Pidana Khusus Narkotika Di Pengadilan Negeri Tangerang. *Masalah-Masalah Hukum*, 51(3), 287–298. <https://doi.org/10.14710/mmh.51.3.2022.287-298>
- SHELEMO, A. A. (2023). No Titleبليب. *Nucl. Phys.*, 13(1), 104–116.
- Wibowo, A., & Widiyasmoko, I. A. (2021). Pertimbangan Hakim dalam Penjatuhan Pidana di Bawah Minimum Khusus: Studi Perkara Tindak Pidana Narkotika. *Undang: Jurnal Hukum*, 4(2), 345–369. <https://doi.org/10.22437/ujh.4.2.345-369>
- Wiharti, R. (2024). *BELI NARKOTIKA GOLONGAN I (STUDI KASUS JAKARTA PUSAT NOMOR 61 / PID . SUS / 2023 / PN . JKT PST)*.