

CHAPTER 27. No. 19.

RENT RESTRICTION (SERVICED PREMISES).

AN ORDINANCE TO APPLY THE RENT RESTRICTION
ORDINANCE TO PREMISES LET WITH SERVICE.

Ordinance
No. 10-1943.

[16th March, 1943.]

Commence-
ment.

1. This Ordinance may be cited as the Rent Restriction (Serviced Premises) Ordinance, and shall be construed as one with the Rent Restriction Ordinance, which Ordinance is hereinafter referred to as the Principal Ordinance.

Short title
and con-
struction.

2. For the purposes of this Ordinance, and of the Principal Ordinance (in so far as its application is extended by this Ordinance)—

Interpre-
tation.

(a) where a person occupies serviced premises (as hereinafter defined) for money consideration in circumstances in which, but for this paragraph, he would be a licensee, the relationship of landlord and tenant shall be deemed to exist between such person and the licensor, and the expressions "landlord," "let," "rent," "standard rent," "tenant" and "tenancy" shall be construed accordingly: Provided that the expressions "rent" and "standard rent" shall mean the rent or standard rent exclusive of any charge for service;

(b) the following expressions shall have the meaning hereby assigned to them, that is to say—

"service" means any service or facility incidental to a tenancy, including board, attendance, partial board and partial attendance, which is provided by the landlord for the tenant, or any combination of such services and facilities;

“ serviced premises ” means a building, a part of a building separately let, or a room, which, at the material date, was or is—

(i) let with service, and

(ii) used mainly as a dwelling or as a place of residence,

and includes land occupied with the premises under the tenancy, but does not include premises let with agricultural land, or premises let by the Planning and Housing Commission as constituted under the Slum Clearance and Housing Ordinance, or accommodation in any premises as to which an order of the Board is in force under section 4.

Extension of
the applica-
tion of the
Principal
Ordinance.

3. On and after the 20th of April, 1943, the following provisions shall, subject to the provisions of this Ordinance, have effect in regard to serviced premises, namely—

(a) notwithstanding paragraph (a) of the proviso to subsection (1) of section 3 of the Principal Ordinance, the Principal Ordinance shall apply to serviced premises as though they were dwelling-houses within the meaning of the Principal Ordinance: Provided that—

(i) for the purpose of determining standard rent, the premises shall not be regarded as having been previously let in the same category of letting unless (in case the premises were let with service) the amount of the rent, apart from any charges for service, was agreed between the landlord and the tenant;

(ii) where serviced premises are let as such on the 19th of April, 1943, at a charge which is inclusive of rent and service, the standard rent of the premises applicable to the category of letting in question shall, unless determinable by reference to a previous letting, be the proportion of the inclusive charge determined by the landlord as representing the rent of the premises;

(iii) the landlord shall, forthwith after the 19th of April, 1943, in the case of serviced premises let as such on that date, and at the time of the letting in the case of serviced premises let as such

after that date, furnish the tenant with a statement in writing of the amount of the standard rent of the premises and of the charges for service, and if he shall fail so to do, he shall be guilty of an offence against the Principal Ordinance;

(iv) no inclusive charge for rent and service in connection with serviced premises (unless incurred before the 20th of April, 1943) shall be recoverable by the landlord from the tenant and, if paid by the tenant, shall be recoverable by him or persons claiming through him from the landlord or his personal representative;

(v) section 13 of the Principal Ordinance shall not operate to prevent the making of charges for service in relation to serviced premises;

(vi) section 19 of the Principal Ordinance shall not be construed as conferring any jurisdiction under the Summary Ejectment Ordinance in the case of any occupier of serviced premises who is actually a licensee;

(b) any court in which proceedings are taken to recover judgment in respect of any charges for service, or in which an order or judgment is sought for the recovery of possession of serviced premises or the ejectment of a tenant therefrom on the ground (as hereinafter provided) that charges for service are outstanding, may reduce the sum payable in respect of such charges for service in any case in which the court shall be satisfied that the amount claimed is excessive;

(c) the Board, on the application of the landlord or owner or of the tenant, may by order fix the amount of any charge for service in connection with serviced premises which, in the opinion of the Board, is reasonable, and may from time to time vary any order previously made in the light of changed circumstances. When the amount of a charge for service has been so fixed by the Board, no sum in excess of such amount shall be recoverable by the landlord from the tenant and, if paid by the tenant, any sum in excess as aforesaid shall be recoverable by him or persons claiming through him from the landlord or his personal

representative. When the Board has fixed the amount of a service charge in relation to any serviced premises, a court shall not exercise, in relation to any sum claimed in respect of such charge, the powers conferred by paragraph (b). A landlord or owner may include in one application a request for the determination of all or any service charges in relation to all or any serviced premises in any one building, and the Board may give such directions as to service on any tenant or tenants, or otherwise as to the determination of the application, as it may think just;

(d) there shall be included among the grounds on which, under section 14 of the Principal Ordinance, the landlord may obtain an order or judgment for possession of serviced premises or for the ejection of a tenant therefrom the following ground, namely, that the tenant has failed to pay some outstanding charges for service for at least thirty days after they became due: Provided that, without prejudice to the provisions of the Principal Ordinance, the court shall not make an order or give a judgment as aforesaid if the tenant pays the outstanding charges for service, or such reduced amount as the court may award under paragraph (b), within such time as the court shall allow.

Hotels,
boarding
houses, etc.

4. (1) The landlord of any premises may, at any time after the commencement of this Ordinance, apply to the Board for an order exempting the premises from the control imposed by section 3 on the ground that the premises are an hotel, or a boarding-house, or premises in which similar accommodation is offered and with similar facilities to the accommodation and facilities usually offered in hotels or boarding-houses.

(2) With his application the landlord shall submit his tariff of charges for accommodation in the premises.

(3) The Board may make the order applied for if the Board is satisfied that the premises come within one of the descriptions mentioned in subsection (1) and that the tariff is not in any respect excessive.

(4) When an order has been made under this section, the landlord may from time to time submit to the Board an

amended tariff, and, if the Board shall be satisfied that such amended tariff is not in any respect excessive, the Board may order that such amended tariff shall be approved in substitution for the tariff previously approved.

(5) If the Board shall at any time be of opinion that an approved tariff has become excessive in some respect the Board may, after giving the landlord an opportunity of being heard and of submitting an amended tariff, by order cancel its previous approval of that tariff.

(6) The landlord shall be guilty of an offence against the Principal Ordinance if he shall recover, or attempt to recover, any charges in excess of those set out in the tariff from time to time approved by the Board. No such excess shall be recoverable by the landlord from the tenant and, if paid by the tenant, shall be recoverable by him or persons claiming through him from the landlord or his personal representative.

(7) The landlord shall at all times cause the tariff approved by the Board to be exhibited conspicuously in the premises and shall not permit to be exhibited any other tariff, and, if he shall contravene or fail to comply with this paragraph, he shall be guilty of an offence against the Principal Ordinance.

(8) An order of the Board under this section shall remain in force so long only as the premises remain premises within one of the descriptions mentioned in subsection (1), and shall in any event cease to have effect if the Board, after giving the landlord an opportunity of being heard, is satisfied that the premises have ceased to be premises within one of the descriptions aforesaid and rescinds its order accordingly.