

Court's message in Llandudno case: Don't take matters into your own hands

By [Tania Broughton](#)

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The owner of a property in upmarket Llandudno who resorted to using private security to evict a tenant and employees has been slapped with an interdict, stopping him from interfering with their possession of the property until the outcome of a proper eviction application.



Source: ikiryo © [123RF.com](#)

The owner, Keith Broad, says he launched eviction proceedings in the court, but the matter was only set down to be heard in November.

He engaged private security in July to take back control of the property because he believed the tenant, Darren Russel, was in the “process of concluding a sub-lease which would mean it would be occupied by foreign nationals for an extended period of time”.

Western Cape High Court Acting Judge Susan van Zyl handed down the interdict earlier this month, also directing that Russel, and his employees, Olwethu Sokanyile and Silvester Siweya, who assist him in running his accommodation business, be given back “possession” of the property.

Read the full judgment [here](#).

Reasons for the order

This week, the judge delivered her reasons for the order, saying that she had no doubt that the “driving force’ behind the forcible removal of Russel and his employees was Broad's frustration at the delay in finalising the eviction application.

“This is self-help in its purest form,” Judge Van Zyl said.

In the application, Russel, Sokanyile and Siweya said they had been in “peaceful and undisturbed” possession of the property when, on 22 July, guests alerted them that there were intruders on the property.

Russel said there were five men. One, who identified himself as a private investigator working for Broad, told him: “We are here to remove you from the property ... on the grounds that you are occupying illegally.”

Russel said they were threatening and aggressive. He phoned his own private security and the men then left. He also attempted to phone the local police, but nobody answered the phone.



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Employees forcibly removed

Two days later, Sokanyile said he heard a loud banging on the door and noticed a large number of men walking around the house and trying to get in with keys.

He said he was duped into opening up the garage door by the private security company “to discuss the matter” when eight “burley men stormed in”. He said he was grabbed and thrown on the floor and that they threatened to kill him and his dog. Siyewa was also said to have been injured and both were forcibly removed.

The men then moved in and changed the locks.

Judge Van Zyl said the events had not been seriously disputed by Broad, who claimed that Russel was “profiting from his property” and he had been left without recourse because the eviction application had been postponed until November.

The judge said she did not have to determine whether or not Russel was a lawful tenant or that he was permanently resident there. The fact that he came and went, and his belongings were in the house, meant that he had possession.

With regards to Sokanyile and Siyewa, she said the property was their home “for at least as long as Russel was the tenant”. Broad had not initiated eviction proceedings against the employees, only Russel, even though he has no right to remove them without a court order.

The judge said Broad’s conduct “reeks of a pattern of attempts to circumvent the hearing of the eviction application that may very well recur in the coming months”.

She said this was a classic case of spoliation (the wrongful deprivation of another’s right of possession) and granted the

interim interdict.

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