



Discontinuing power supply and recouping legal expenses

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Introduction

Electricity:

- Constitution in favour of “debtor”
- Direct cost to scheme – financial impact
- What to do to change situation

Legal fees:

- Direct cost to scheme – financial impact
- Protracted process to recover costs – debtor “wins”
- What to do to change situation

Disconnection of electricity

- “Taking the law into your own hands” - referred to as an act of spoliation and is illegal
- What is an act of spoliation?
- Constitution vs scheme rules (STSM Regulations)
- What is the mischief rule?
- CSOS view on disconnection of levies

Discussion questions – Willie Roos (Stratafin)

1. Can a body corporate disconnect electricity for non-payment of levies?
2. What legal framework governs the disconnection of electricity for arrear levy collection?
3. Is a court order necessary for disconnecting electricity as part of arrear levy collection?
4. How and when can a Body Corporate initiate the process of disconnecting electricity for arrear levy collection?
5. What are the rights of the arrear levy debtor in the event of electricity disconnection?

Recouping of legal fees from levy debtors

- Agree to fees being debited and paid
- Attorney fees - taxed scale vs attorney-client / own-client scale
- Shortfall in recovery of fees – taxed vs attorney fees
- Financial impact of above – budget provision
- CSOS option – adjudication order not appealable – approach court

Discussion questions – Willie Roos (Stratafin)

1. Can legal fees be recovered from arrear levy debtors?
2. What types of legal fees can be recovered?
3. What are the key considerations for determining the recoverability of legal fees?
4. What legal actions can a body corporate take to recover arrear levies and associated legal fees?
5. Are there limitations on the recovery of legal fees?
6. Can arrear levy debtors challenge the recovery of legal fees through legal mechanisms?

Conclusion

Electricity:

1. Scheme rule adopted & approved by CSOS
 - BC may approach court for an order that the electricity can be disconnected where an owner fails to pay their levies
2. Obtaining a court order for the disconnection of electricity.

Legal fees:

1. Amend management rules - debtors liable for all costs & expenses incurred in the collection of arrear levies on an attorney-client or own-client scale.

THANK YOU