

Introduction

This is part 2 of an “idiots guide” to logging queries, disputes and complaints with the City of Johannesburg Metropolitan Municipality (“COJ”). In part 1 we discussed what kind of complaint, dispute or query ‘counts’ for the purposes of allowing a customer to delay payment or avoid credit control action. In this part we discuss how a customer can and should go about logging those queries. It is important to understand that the information below applies only to COJ and not to other municipalities, as each will have its own unique by-laws and policies to contend with.

Caution: Difference Between a Query and a Dispute

In Part 1 we explained that a ‘query’ might be considered different to a ‘dispute’ in terms of COJ’s by-laws and policies. If this is the case, a query would be considered as any “issue” raised in relation to an invoice, billing information, infrastructure repairs, etc. whereas a ‘dispute’ would be a denial of liability for a certain amount on an invoice. This is relevant when we ask whether the query or dispute has been logged in the prescribed manner. If there are different ways that they can be logged, one must be careful to always ensure that they are logged precisely in the way that the law requires. Remember also to provide the necessary information as described in Part 1 when logging your query/dispute.

How to “Log a Query”

The COJ’s website has a page dedicated to logging queries. It is entitled ‘Log Your Query’. It explains that you can phone 0860 56 28 74 or 0860-JOBURG to log your query. This webpage gives a step by step guide of how to log your query telephonically. This webpage also says that you can fax your query to 011 358 3408 / 09 or email it to joburgconnect@joburg.org.za. Interestingly, COJ’s Debt Collection and Credit Control Policy (“Credit Policy”) only allows a customer to log a query telephonically because this is the only method that allows for the customer to obtain a reference number instantaneously. For the purposes of the Credit Policy it is critical that you obtain a reference number for your call. If the operator refuses to give you a reference number for any reason at all, ask for an interaction number as proof of your attempt to log the query. If you are refused an interaction number, take the name of the operator and the time of the call down, and keep all of this information in a safe place for use later as proof of your attempt to log the

query.

How to “Log a Dispute”

Section 102 of the Local Government: Municipal Systems Act recognises that when a ‘dispute’ is logged, the municipality cannot take action against the consumer for non-payment of the disputed amount or allocate amounts paid to the disputed amount. It is therefore critical that the ‘dispute’ be lodged in the prescribed manner. COJ’s by-laws/policies require that a dispute be lodged in writing, but they do not state to whom they must be delivered or at what address. There is no prescribed form for a dispute, so any written submission will do provided that it has the appropriate content as set out in our prior article. For the sake of safety, we recommend submitting your written complaint in duplicate to the COJ’s main offices on Loveday Street (now called Civic Boulevard) and obtaining a stamp on one copy (which you retain) as proof of submission. It is likely that any written submission (such as an email or fax) could also count as a ‘dispute’ in terms of law although this has not been judicially considered as of yet.

If the municipality refuses to accept service of the letter by hand, leave one copy with it anyway and make an affidavit immediately explaining that you attempted to deliver it by hand but that they refused to accept it, so you left a copy with them. Be as detailed as possible as you may need this in court later.

Promotion of Administrative Justice Act (PAJA)

Lodging a dispute with the City will trigger an obligation by an official at the City to make a decision with regard to the dispute. This means that the City’s actions in dealing with a dispute (i.e. any decision taken or even any failure to make a decision by the City) constitutes “administrative action” and is reviewable by a court in terms of the Promotion of Administration of Justice Act (“PAJA”) if it is done unlawfully. In terms of section 7(2)(a) of PAJA no court or tribunal shall review any administrative action in terms of PAJA unless any internal remedy provided for in any other law has been exhausted.

This means that you would not be able to approach a court for any relief in the ordinary course with regard to your dispute with the City unless you have complied with all of the above mechanisms. This is not to say that you would not be able to approach a court on an urgent basis, if for example your services were disconnected before your dispute resolution process is

complete. At any point in time (but particularly during urgent proceedings) you can ask the court to condone your failure to have exhausted the prescribed internal remedies but you need to make out a proper case for this in the relevant pleadings.

Condonation for non-compliance

There have been cases in which the court refused a consumer the relief sought purely on the basis that the appropriate dispute resolution mechanisms were not followed. As explained above, to the extent that a consumer is not able to, or has failed for any reason to, comply with the COJ's internal dispute resolution mechanisms before approaching a court, the consumer can ask the court to condone that non-compliance. However, this must be set out clearly in the notice of motion and in the founding affidavit with reasons explaining why the appropriate steps were not or could not be taken.

Conclusion

Logging a query/dispute is important to 'trigger' a customer's right to not pay disputed amounts. If the query/dispute is not logged correctly, however, the customer is not protected by the query/dispute and action can be taken against it for non-payment of the disputed amount.

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