

How to Lodge a Billing Dispute in eThekweni and an Analysis of the Credit Control and Debt Collection Policy

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INTRODUCTION

If it has not yet happened to you, it has most likely happened to someone you know or someone in your community. Receiving an inflated municipal bill that is significantly greater than normal creates a tremendous amount of stress. Ignoring it will result in disconnection of your service/s, interest accruing, legal action and the amount on your bill will continue to increase. So what do you do when you check your municipal bill and discover that you are being charged ten times your typical monthly amount, or any amount that shouldn't be there?

HOW TO LODGE A DISPUTE

Many people have faced unexpected spikes in their municipal bill and should any dispute arise with respect to the amount owing a customer who wishes to lodge a dispute in respect of an account must submit the dispute in writing, on the prescribed form, to the Authorised Official as defined in the Credit Control and Debt Collection Policy stating the reasons for such dispute and any relevant facts, information or representation which the official should consider to resolve the dispute. ***A dispute must be in writing and lodged with the relevant municipal department.***

The dispute must be submitted within twenty-one (21) days of the account. If a dispute is raised after this period, it will be treated as an enquiry, the account will not be suspended, and normal credit control procedures will apply. The authors of this article do not believe that this requirement is within the confines of the law as it stands, however, it is what is set out in the policy, as such, we do believe that we should bring this to your attention. The dispute must relate to a specific amount on the account and any amounts that are not in dispute must be paid in full. If the amounts not in dispute remain unpaid, services may be disconnected.

A customer must provide the authorised official with the account number alleged to be in dispute, which includes incorrect readings, misallocation of payments, incorrect tariffs charged and incorrect property values used and any other relevant information that may be required. It is advisable to take pictures of your meter and compare same to your bill in order to ascertain if the municipality is reading your meter incorrectly, billing you on estimated readings or if there is a leak - which needs to be attended to. If water charges are unusually high, you are advised to check for a possible water leak first, before querying the amount.

In terms of Section 24.9 of the eThekweni Municipality Credit Control and Debt Collection Policy, the Authorised Official:

- (a) May investigate or cause the dispute to be investigated within thirty (30) days, or as soon as possible after such dispute is received;
- (b) May call for additional information / documentation from a customer who disputes an account;
- (c) Must inform the person in question, promptly, in writing, of his or her finding after conclusion of the investigation;
- (d) Must take a decision, based on the spirit of the Policy.

WHAT HAPPENS IF YOU DO NOT LOG A DISPUTE IN TIME?

It is important to note that a dispute submitted in light of the above shall not stop or defer the continuation of any credit control and legal procedure already instituted for the recovery of arrear payments relating to such dispute. Again, the lawfulness of this statement is questionable, as a dispute lodged in terms of section 102(2) of the Municipal Systems Act would preclude any adverse credit control measures being taken against a consumer, however, this is only applicable in so far as all undisputed charges are paid in full. However, as above, this is what is set out in the credit control policy, as such, we are relaying same to yourselves.

WHAT HAPPENS IF YOU ARE NOT HAPPY WITH THE OUTCOME OF THE DISPUTE LODGED (OR YOU DO NOT RECEIVE THE REQUIRED FEEDBACK IN 30 DAYS)?

A person whose rights are affected by the decision of the official, may request the Chief Financial Officer (CFO) to review the decision of the official as contemplated in Clause 24.2 of the Credit Control and Debt Collection Policy. Please remember that the lack of a decision (in other words you not receiving an answer to your dispute lodged) is also a decision that you can ask the CFO to review.

The Customer has the right to request the CFO to review a decision of the Authorised Official. The CFO may hear representations and either confirm, vary or revoke the decision of the Authorised Official and must communicate his decision within thirty (30) days of date of receipt of the request for a review of the Authorised Official's decision, or as soon thereafter as possible.

WHAT HAPPENS IF YOU ARE NOT HAPPY WITH THE OUTCOME OF THE DECISION OF THE CFO (OR YOU DO NOT RECEIVE A RESPONSE WITHIN A REASONABLE TIME)?

The decision of the CFO shall be subject to the right of appeal in terms of Section 62 of the Systems Act. A written notice of the appeal and reasons must be lodged with the City Manager in a prescribed form, within twenty-one (21) days of the date of notification of the decision by the CFO.

WHAT MUST BE PAID TO THE MUNICIPALITY WHILE MY DISPUTE IS ONGOING?

It is important to note that you cannot simply stop paying for your municipal account while you are disputing a certain amount on your account. You need to continue to pay all undisputed charges. For example, if you are of the view that your electricity charges are incorrect because they have been billed on estimated readings that are inflated, you cannot not make payment in respect of all of the other charges on your account.

You would also need to make payment of an average amount in respect of your disputed service charges. As such, if per the above you are disputing your electricity charges, and you know that in last month's bill you were billed correctly, you would need to make payment of the amount per last month's bill as a contribution toward your disputed charges as well.

According to the Policy, parties who are jointly and severally liable for a debt due to the Municipality in terms of the Bylaw read with the Credit Control and Debt Collection Policy, may not raise a dispute against such liability where the Municipality elects to enforce payment against one of the parties.

This statement cannot be correct in law, as the Municipality cannot preclude a property owner from disputing amounts, irrespective of how that property is owned. It would be important to lodge your dispute as quickly as possible, to avoid any adverse action being taken against you, but the Municipality must take cognisance of all disputes lodged with it.

The policy sets out that an account must be paid in full regardless of any query that may be raised in respect of the account. Once the query is resolved and a decision is reached, such account will be credited or debited accordingly. The lawfulness of this statement is also questionable. A municipality cannot lawfully require a person to make payment of amounts which are disputed as being due to it, as there is a potential that they are not lawfully due and payable. Only once a dispute has been resolved, and if any amounts are due after the dispute has been resolved, can a consumer be "forced" to make payment thereof. Further thereto, the preceding paragraph is in direct contradiction with what is outlined in the next paragraph. As such, it seems that not even the Municipality is sure about which route it is to follow.

The debtor must continue to make regular payments based on the average charges for the preceding three (3) months prior to the dispute, plus interest where applicable. The Municipality cannot hold a consumer liable for interest charges on disputed amounts. Payment in respect of interest can only be enforced in so far as it relates to amounts lawfully due to the Municipality. As such, the legality of the statement, in so far as it relates to the interest charges having to be paid, is also questionable. Further thereto, as already set out above, if you are disputing a specific charge, you would still need to make payment of an average amount in respect of that charge, even where you have lodged a dispute.

HERE IS AN EASY SUMMARY OF WHAT WE SET OUT ABOVE:

Residents are urged to check their bills on a monthly basis and contact the municipality if there are any issues with their accounts. If you find yourself in a billing dispute with the eThekweni Municipality, here's a guide on what steps you can take:

1. Phone the Call Centre: Dial 080 131 3013 and speak to an agent, stating your dispute.
2. Visit Your Local Sizakala Centre: Sizakala Centres are community service centres where you can engage directly with municipal representatives and discuss your billing concerns.

3. Customer Services Offices: If face-to-face interaction suits you better, the customer services offices are located at Prior Road in Durban. There, you can speak with staff who specialize in handling billing disputes.

4. Send an Email: If you prefer written communication, compose an email detailing your issue and send it to eservices@durban.gov.za. Be sure to include relevant information and any supporting documents.

OTHER HANDY TIPS TO REMEMBER:

1. Always keep a written record of all of your interactions with the Municipality. If you lodge a dispute in writing, please make two copies of it, one for you to hand to the Municipality and one for them to acknowledge receipt on. (The same applies to escalating your dispute to the CFO or the Municipal Manager).

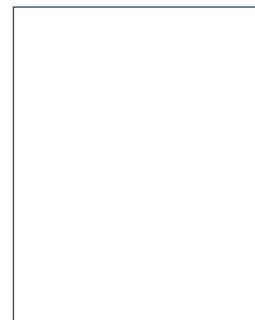
2. Take monthly photographs of your water and electricity meters and keep record thereof. This way you will notice immediately if there is a spike in your consumption, or if your meters have been replaced (and whether or not this replacement in meters has been recorded on your invoices correctly or at all). eThekweni has the option for you to send in your photographs to them on a monthly basis as well. This could preclude any billing issues from arising (although there is never a guarantee that they will actually look at the photo's you send in).

CONCLUSION

If you have received a large bill from the Municipality that you are not satisfied with and you have lodged a dispute and escalated it and are still not receiving any assistance from the Municipality with regard to same, we would urge you to seek assistance from a municipal expert to assist you with your dispute. This is to protect you from both the unlawful disconnection of your services, as well as being held liable for amounts which you do not owe to the Municipality.



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