

# FATAWA LEASING 2016

**From:** مجد

**Sent:** Monday, January 18, 2016

**Subject:** هل يلزم الأجير برّد الأجرة إذا امتنع المستأجر عن المتابعة

بسم الله الرحمن الرحيم

هل يلزم الأجير برّد الأجرة إذا امتنع المستأجر عن متابعة العمل

**My Answer:**

الأخ المكرم مجد

السلام عليكم ورحمة الله وبركاته

بل يلزم المستأجر بدفع الأجرة للعامل مدة العقد وحسب شروط عقد العمل المنصوص عليها بالقانون الذي جرى التعاقد تحت سلطته القانونية. وليس له التخلص من الجزء غير المدفوع من الأجرة إلا بإعلان الإفلاس حسب شروطه القانونية والإجرائية، وعندئذ يكون العامل واحدا من الغرماء بما تبقى له من أجرة مدة العقد. فإذا لم يكن بينهما مدة عقد فبحسب الشروط القانونية لإنهاء العقد المستمر على العمل.

مع أسمى التقدير وأعز التحية

أ. د. منذر قحف

**From:** Shabeel

**Sent:** Tuesday, April 19, 2016

**Subject:** Interest-based loan in the form of lease

Hi Monzer,

May Allah forgive our sins.

Is it permissible for a lessee to earn from a leased property, as per Islamic Sharia law?

Example: Lessee has taken a leased apartment, and lessee earns from it by renting it out to other tenants. And there is a contract made with lessor that lessee will pay a fixed percentage (say 15%) of rent to lessor till the agreement ends. Since there is less market risk for the lessee, does it considered as interest or is it permissible as per sharia law if it's all defined clearly in a written contract between lessee and lessor? Does this come under Ijarah?

Regards

Shabeel

**My Answer:**

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in

Dear Br. Shabeel

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

Ijarah is permissible and its fixed income is OK rather for each Ijarah period the rent must be fixed at the most at the beginning of the period. this is not interest and BTW fixation is not the reason of prohibition in interest, rather the reason is being an increment in a debt.

If you rent a car for \$500 a month and the contract permit, it is OK to rent it to somebody else for 600.

The point of 15% is confusing, I did not understand it, please rewrite it clearer and I will answer it.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

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**From:** Shabeel

Wa Alaykum Assalam wa Rahmatullah wa Barakatuh.

Thanks for your prompt reply. Highly appreciated. May Allah reward you for your help. Ameen.

I will try to explain further.

The lessee is my uncle. We are basically from India.

My uncle took the leased apartment for 5,00,000 INR. The agreement between the lessor and lessee says that:

- 1) Agreement to lease the property for a period of three years and can extend/withdraw the agreement based on mutual consent later.
- 2) Lessee is allowed to sublet the apartment to other tenants and get/earn rent from it.
- 3) Lessee needs to pay fixed amount of INR 1500 to lessor every month as part of rent, water bills and maintenance cost.
- 4) The minor maintenance like plumbing, electrical , carpentering works be borne by the lessee during the agreement period.

Lessee have presently given the leased apartment to a tenant, where tenant pays 11000 INR to lessee every month, with a hike in rent 5% every year as per government norms and as per written rent agreement. INR - Indian Rupees.

Regards

Shabeel

**My Answer:**

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in

Dear Br. Shabeel

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

This is permissible, but your uncle is a loser if he is renting all the property to a tenant as you mentioned. This is because the rent he collects is 396,000 while he pays 500,000 + 54,000 (1500X36).

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

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**From:** Shabeel

**Sent:** Wednesday, April 20, 2016

**Subject: Lease contracts with some conditions.**

Oh no , one thing forgot to mention.

If the contract/agreement ends between lessee and lessor, lessor will give back 5,00,000 INR back to lessee.

**My Answer:**

Please give more details. This is important and affects the Fatwa what are the conditions of returning this amount and any other details.

Prof. Dr. Monzer Kahf

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**From:** Shabeel

**Sent:** Thursday, April 21, 2016

Assalamu Alaykum,

I will try to list down the major points completely:

- 1) Lessor is the sole and absolute owner of the schedule premises (apartment.)
- 2) Lessee has paid an amount of Rs 5,00,000 as cash to Lessor.
- 3) This agreement amount shall not carry any interest, and shall be refunded to lessee at the time of vacating the premises.
- 4) Agreement is executed for the period of 3 years , and may renew further based on both parties mutual consent.
- 5) During this period lessor should not pay any interest to the lessee.
- 6) Lessee agreed to pay an amount of Rs. 1500 to lessor every month as part of rent, maintenance and water bills.
- 7) Lessee should pay the electricity bills during this period without fail.
- 8) The scheduled premises should be used only for residential purpose and should not be used for any other purposes.
- 9) Whereas lessee can sub-let or under-let the said premises to any other person and Lessor agrees the same.
- 10) In case any delay to refund the amount by the lessor to the lessee , the period will be continued till the refund of the amount .
- 11) At the time of vacating lessee should do painting work on the premises.

Regards

Shabeel

**My Answer:**

Bismillah al Rahman al Rahim

Alhamdu Lillahi Rabb al Alamin, wa al Salatu wa al Salamu ala Sayyidina Muhammad, wa ala Aalihi wa Sahbihi Ajma'in

Dear Br. Shabeel

Assalamu Alaykum wa Rahmatu Allahi wa Barakatuh

This is a clear RIBA contract. The Riba in it is the usufruct (time use) of the apartment for 3 years. this is Riba in kind although there is no Riba in money as you said (no interest). The in-kind Riba is as Haram as the money Riba there is no single difference. You did not mention earlier that there is a condition to return the 500,000 which was paid simply as a loan not as rent for the apartment. The fact that it must be returned makes it fully Riba transaction. Any

benefit from the apartment is as Haram as the Riba itself. This includes residing in it as well as renting it and getting rent.

Wa Allahu A'lam

Wa Alhamdu Lillahi Rabb al Alamin

Wassalam

Prof. Dr. Monzer Kahf

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