

ABSTRACT

Nurhayati, Faizah. 09220050. 2014. **Islamic Law Review On The Down Payment Of Boarding House Rent (A Case Study In Summersari Sub District, Lowokwaru District, Malang City)**. Thesis. Department of Islamic Business Law. Maulana Malik Ibrahim State Islamic University Malang. Supervisor: Dr. H. Fadil Sj., M.Ag

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Tenancy is one of *muamalah* activities which is often performed by people to fulfill life needs. The needs may be in the form of goods and services which are not possessed by particular people such as a temporary residence for students. People who live near a campus use this opportunity by renting rooms for students' temporary residence. One example taken from this case is a boarding house at Summersari Sub District RW 01. It implements a down payment in the tenancy. It is contradicted with the opinion of the majority of Islamic scholars who state that down payment is prohibited because it contains *gharar*.

The research aims to know the down payment practice in the tenancy of a boarding house in Summersari Sub District, Lowokwaru District, Malang City. It also aims to know the Islamic law review on the down payment implemented by this boarding house.

The research employs sociological law research (empiric) using qualitative approach. The data sources are primary and secondary data. The data are collected through observation, interview, and documentation. The obtained data are analyzed by using qualitative analysis method that is inductive method.

Based on the research, it can be concluded that the down payment for the boarding house located in Summersari Sub District RW 01 is considered as *urf* or the habit of the house owner who lends the boarding house using annual payment system. The tenancy contract is executed by the boarding house's owner and the students of Maulana Malik Ibrahim State Islamic University Malang as in accordance with the *rukun* or principles and requirements of tenancy (*ijârah*) to make the verdict legal. The down payment implementation for a boarding house is accomplished in four ways. First, the money for the down payment cannot be taken back if the tenancy is cancelled. Second, it can be fully taken back by the client although the tenancy is cancelled. Third, it can be taken back under some conditions, for example, finding the substitute or new tenant. Fourth, it can be drawn using a new contract. The down payment practice can be implemented as long as there are no parties inflicted. Down payment is implemented to avoid the agreement violation between the boarding house owners and the tenants.