



Landlord/Tenant Rights

©2010 eNotes.com, Inc. or its Licensors. Please see [copyright information](#) at the end of this document.

- [Background](#)
- [Leases and Rental Agreements](#)
- [Parties to a Lease](#)
- [Standard Lease Provisions](#)
- [Landlord Obligations](#)
- [Tenant Obligations](#)
- [Security Deposits](#)
- [Eviction and Unlawful Detainer](#)
- [Defenses to Eviction Proceedings](#)
- [State and Local Laws](#)
- [Additional Resources](#)
- [Organizations](#)

Background

Landlord–tenant law governs the rental of property. The basis of the legal relationship between a [LANDLORD AND TENANT](#) is derived from both contract and property law. The tenant has a temporary possessory interest in the premises. The rental premises may be land, a house, a building, or an apartment. The length of the [TENANCY](#) may be for a specific period of time, for an indefinite but renewable period of time (this would include a month–to–month tenancy). During the term of the tenancy, the tenant has the right to possess the premises, and to restrict the access of others. A landlord–tenant contract may alter and define rights allowed under law. Landlord–tenant contracts are typically known as rental agreements or leases. What provisions may be contained in a [LEASE](#) is normally regulated by state law. Standard in all leases is the implied covenant of quiet enjoyment which gives the tenant the right to possess the rental premises without interference from or disturbance by others, including the [LANDLORD](#). Another standard lease provision for residential rental units is the [WARRANTY](#) of [HABITABILITY](#). If the landlord causes the rental to become uninhabitable or fails to make repairs so that the premises are uninhabitable, a constructive [EVICTION](#) may occur. This may allow the tenant to withhold rent, repair the problem and deduct the cost from the rent, or recover damages. Federal law prohibits [DISCRIMINATION](#) in housing and the rental market. Landlords are also typically restricted by state laws from evicting tenants in retaliation of action the tenant may have taken to enforce a provision of the lease, a housing code compliance, or other applicable law.

Leases and Rental Agreements

A lease or rental agreement is a contract between a landlord and a tenant which gives the tenant the right to use and occupy rental property for a certain period of time. When a tenant turns over the right or the partial right to use and occupy rental property to a roommate or subtenant, that agreement is sometimes referred to as a sublease. A lease can be a verbal agreement or a written agreement. At the end of the lease, use and possession of rental property must be returned to the landlord. A lease requires the tenant to pay a specified amount of money each month in return for the use and enjoyment of the premises. This payment is called rent.

Parties to a Lease

Landlord

A landlord is the owner the rental property or the agent of the owner of rental property. Often real estate management companies will act as landlords for private or [CORPORATE](#) entities. The landlord allows a tenant to use and occupy the rental property in exchange for payment of rent.

Tenant

A tenant is the person or entity that has the right to occupy rental property in accordance with a rental agreement or lease. In addition to provisions set out in the lease, state law typically outlines tenant rights with its own Landlord and Tenant law.

Roommates

If roommates are listed on the lease, each roommate is considered a tenant and each one will be individually fully responsible for the total amount of the rent due to the landlord, unless the lease specifically states otherwise. If only one roommate is listed on the lease and the others have not signed the lease, only the roommate listed is considered the tenant. The others are considered subtenants. Only roommates who sign the lease are responsible for the full amount of the rent to the landlord. The roommates who signed may have some separate claims against their non-signing, non-paying roommates, but such claims would typically be covered by contract law rather than landlord tenant law.

Standard Lease Provisions

Most lease have standard provisions which set forth landlord and tenant rights and obligations. Such provisions include:

1. The names of the parties
2. A description of the rental property
3. The term, or length, of the lease
4. The amount of rent
5. The due date of the rent
6. The amount of the security deposit
7. Whether the tenant is subject to late fees
8. Maintenance responsibilities
9. Options to renew
10. Termination notice requirements
11. When the landlord may enter the rental property
12. Rules concerning pets

While leases or rental agreements do not have to be in writing to be valid, the terms of the agreement will be easier to enforce and the responsibilities of the parties will be clearer if the rental agreement is in writing.

Unenforceable clauses

Some clauses that appear in a written lease or rental agreement are, by the nature of the clause, unenforceable. These include agreements that the landlord can repossess property if the tenant falls behind in the rent,

agreements allowing the landlord to enter the rental unit any time, without notice, agreements that tenants will pay for all damages to the rental unit without regard to fault, and agreements that court action entitles the landlord to more money than can be ordered by the court.

Landlord Obligations

Landlords have the responsibility to maintain residential rental property and repair any defects. Under most state law, there is an [IMPLIED WARRANTY](#) of habitability, which is defined as the minimum standard for decent, safe, sanitary housing suitable for human habitation. This warranty applies throughout the lease. Most jurisdictions that ordinances or laws that require owners of real property to maintain the property and make any necessary repairs. These codes typically require that any rental property offered by a landlord must meet the minimum standards established in the codes. The landlord's obligation is to deliver the rental property to the tenant in compliance with the housing codes and to maintain compliance with the housing codes throughout the time the tenant has possession of the rental property.

Tenant Obligations

The responsibilities of tenants are typically spelled out in the lease; however, basic responsibilities include timely payment of rent, reasonable use and care of the premises, and a duty not to disturb or disrupt surrounding neighbors with excessive noise.

Security Deposits

A security deposit is an amount of money given by the tenant to the landlord to ensure that reimbursement is available for any damage done to the premises by the tenant. Some leases require additional deposits for pets or waterbeds. State laws require the return of the security deposit within a certain period of time. If the entire security deposit is not returned, the landlord should provide the tenant with a written explanation regarding any deductions made from the security deposit. Some states have laws with steep financial penalties for landlords that fail to return the security deposit within the amount of time allowed by law. A security deposit typically cannot be credited toward the payment of the final month's rent. Some state laws require the landlord to keep the security deposit in a separate interest bearing account.

Eviction and Unlawful Detainer

Eviction is a legal process by which a landlord may terminate a tenant's right to remain on the rental property. Ultimately, the tenant may be forcibly removed from the property by the sheriff or other law enforcement official; however, doing so requires a formal court order. A tenant can be evicted for numerous reasons, but typically evictions take place where the tenant is in violation of one or more provisions of the lease agreement. Valid reasons for eviction may include:

1. Failure to pay rent on time
2. Harboring pets or persons not authorized to reside at the premises under the lease
3. Illegal or criminal activity taking place within the rental premises

A landlord cannot forcibly evict a tenant without proper notice. The landlord must provide written notice to the tenant of the [DEFAULT](#). If the tenant does not fix the default within a reasonable amount of time, the

landlord must file for a formal court eviction proceeding. Courts commonly refer to eviction actions as "forcible entry and detainer" or "unlawful detainer" actions. The legal theory is that the landlord alleges the tenant unlawfully continues to detain or have use and possession of the rental property, and the landlord seeks the assistance of the court to have the tenant removed. The first step is for the landlord to file a complaint or petition with the local court and pay a small filing fee. The tenant must be served with the court documents. An [UNLAWFUL DETAINER](#) action is typically a proceeding which, unlike many civil trials, can move quickly through a court system; however, in some jurisdictions, tenants are entitled upon request to a jury trial in which the jury determines whether the tenant should be evicted.

In most jurisdictions, once the landlord has filed the required paperwork, a court [HEARING](#) on the unlawful [DETAINER](#) will be set. In some jurisdictions, the tenant is required to file a written notice or answer. In those jurisdictions, if the answer is not filed, the landlord will prevail without a hearing ever being set. In jurisdictions that do require a hearing, if the tenant does not attend the scheduled court hearing, the landlord will prevail. If the tenant does attend, the court will determine whether the tenant should be evicted and will take into account any defenses the tenant may have. The landlord may be given a monetary judgment for the amount of money owed for rent, attorney fees and costs, and may be granted a [WRIT](#) for possession of the premises. A writ will typically issue a few days after the judgement, allowing the tenant the opportunity to move voluntarily. Once the writ is issued, it may be executed by local law enforcement officials (never the landlord directly) so that the tenant is removed from the rental property and then the landlord is given possession.

Defenses to Eviction Proceedings

Improper Notice

Each state has its own requirements for the notice of eviction and the method the tenant receives the notice. If the landlord did not provide sufficient notice prior to filing a court action or did not correctly deliver or serve the notice to the tenant, the tenant may have a defense to the eviction, even if the tenant has not paid the required rent. If this argument is successful, the landlord will usually be forced to redo the procedure from the beginning.

Acceptance of Partial Rent

If the landlord accepts partial rent from the tenant, knowing that the tenant is in noncompliance with the lease agreement, either because of nonpayment of rent or due to some other reason, the right to evict the tenant during that rent period is usually waived. The landlord could have the tenant sign a paper indicating that partial acceptance on the part of the landlord waives any rights the tenant would otherwise have to claim partial payment. Such waivers are valid in many jurisdictions.

Failure of the Landlord to Maintain the Premises

A tenant seeking to use this theory as a defense to eviction should provide written notice to the landlord that there is a defect in the property. The notice to the landlord typically must provide the landlord with a reasonable amount of time to accomplish the repairs. If the landlord is nonresponsive, the tenant may then hire and pay for a professional to make the necessary repairs, then deduct the cost of the repairs from the rent paid to the landlord. Some states restrict this repair and deduct tactic and provide that the cost of the repair must not be more than one month's rent.

Retaliatory Eviction

This type of eviction happens when the landlord takes an action against a tenant for acting as a tenant activist. If the landlord seeks to evict the tenant for informing government agencies of code violations or requesting that the landlord make repairs and maintain the rental property in fit and habitable condition, a retaliatory eviction claim may be a valid defense to an eviction action.

Constructive Eviction

Constructive eviction occurs when residential rental property is in an uninhabitable condition. When rental property is uninhabitable, it is said to create circumstances under which the tenant has been deprived of the full use and possession of the rental property and has therefore been "evicted." The theory of constructive eviction is that since the tenant did not receive what was contracted for, the tenant is not obligated to continue paying rent to the landlord. In order for such a claim to be effective, the tenant should give the landlord written notice of reasons for the constructive eviction and provide the landlord with a reasonable amount of time to correct the problems. If the landlord does not fix the problems within a reasonable amount of time, the tenant may leave the rental property and not be responsible for payment of rent which would have otherwise been due.

Fair Housing

In 1968 the federal government passed the Fair Housing Act which has since been modified and adopted by states and various localities. The Fair Housing Act as amended prohibits discrimination in housing and related transactions on the basis of race, color, national origin, sex, religion, [DISABILITY](#), and familial status (the presence or anticipated presence of children under 18 in a home). The Act covers discrimination in all types of housing-related transactions, including rentals and leases.

State and Local Laws

Most states and some jurisdictions have Landlord Tenant Acts specific to the area. These laws vary significantly and state laws will govern the provisions of any lease.

ALASKA: Except for units renting for more than \$2,000 per month, security deposits and prepaid rents may not total more than two months' rent. Security deposits and prepaid rent must be deposited by the landlord or the property manager in a trust account in a bank or [SAVINGS AND LOAN ASSOCIATION](#) or with a licensed [ESCROW](#) agent. Exceptions can be made in rural Alaska, if there is no bank in town, and it would be impractical to bank the money. A trust account can be any separate savings or checking account labeled "trust account" and used only for deposits and prepaid rents. There is no requirement that the trust account earn interest. However, if the rental property is managed by a property manager, the interest in the trust account belongs to the tenant, under the terms of the real estate license law, unless the tenant agrees in writing that the interest is payable to the property owner. A seven-day written notice is required to terminate a tenancy for nonpayment of rent. The tenant can cure by paying the rent within seven days. The notice must tell tenants that they have the choice of paying or moving.

ARIZONA: Security deposits cannot exceed one and a half times the monthly rent. To bring an eviction action, the landlord must first serve a five-day notice to vacate the premises in person, by certified mail, or at the premises. If notice is sent by certified or registered mail, the tenant is assumed to have received the notice on the date the tenant signs for it or five calendar days after it was mailed, whichever occurs first. State law mandates that the trial be held no sooner than three and no later than six business days after the complaint was

Encyclopedia of Everyday Law: Landlord/Tenant Rights

filed. If the complaint is for non-payment of rent and the landlord accepts payment of all rent due and reasonable late fees identified in the written agreement, attorney fees and court costs, the rental agreement is reinstated and the case will be automatically be dismissed. An eviction order is issued no earlier than the sixth calendar day after judgment if the tenant has not moved out of the rental unit. The order instructs the sheriff or constable to evict the tenant. Lockouts and utility shutoffs by the landlord prior to 24 hours after the issuance of a writ are unlawful. Unlawful lockouts and utility shutoffs may entitle the tenant two months' free rent. Security deposits must be returned within 14 business days from the time the tenant vacates the premises.

ARKANSAS: Tenants have few rights under Arkansas law. Rental units can lawfully be rented in "as is" condition. The landlord does not have to provide additional maintenance to the dwelling. Security deposits cannot be in excess of two months rent. Security deposits must be returned within 30 days. A landlord may withhold the entire amount of the security deposit for damages or unpaid rent. There are two types of eviction procedures: "unlawful detainer" (a civil eviction) and "failure to vacate" (a criminal eviction). "Unlawful detainer" requires three days written notice to vacate after which the landlord can file a complaint. If the tenant does not object in writing to the eviction within five days, the sheriff can removed the tenant from the rental property. "Failure to vacate" method of eviction, requires ten days written notice. This method of eviction applies only to non-payment of rent. Tenants who do not leave the premises within ten days can be charged with a criminal [MISDEMEANOR](#) and could be fined \$25 a day for each day the tenant remains on the rental property. A landlord is not permitted to change the locks, move furniture out, turn off utilities or use any other "self-help" method of eviction; however, all property left in the dwelling by the tenant will be considered abandoned and may be disposed of by the landlord as the landlord sees fit and without recourse by the tenant. All property left on the premises by the tenant is subjected to a [LIEN](#) in favor of the landlord for the payment of all sums agreed to be paid by the tenant.

CALIFORNIA: The landlord must pay five percent interest on all security deposits and deposits must be returned to the tenant within 21 days after the tenant vacates the rental property. State law requires a 60 day notice for any rent increases which, alone or cumulatively, raise a tenant's rent by more than 10 percent within a 12 month period. This law covers both rent controlled and non-rent controlled units. Lockouts are illegal, and the landlord can be liable for \$100 a day in penalties on an illegal lockout. There is a three day notice requirement. Tenants must answer a complaint for forcible detainer within five days or lose the right to trial.

SAN FRANCISCO: Under the San Francisco Housing Code, landlords must provide heat capable of maintaining a room temperature of 68 degrees (at a point three feet above the floor). This level of heat must be provided for at least thirteen hours, specifically from 5:00 AM to 11:00 AM and 3:00 PM to 10:00 PM.

COLORADO: There is a three day requirement on non-payment of rent notices. Colorado law provides that in certain situations a landlord may have a lien on a tenant's [PERSONAL PROPERTY](#) for rent the tenant owes the landlord. In certain circumstances, the landlord may enter the tenant's residence at a reasonable time and in a peaceable manner to take possession of the property covered by the lien. Under this law, a landlord can take only certain property of the tenant to pay back rent. A landlord cannot take personal items, cooking utensils, bedding, beds, or clothes; however, the landlord can take such items as stereos, computers, and televisions. If the landlord takes a tenant's property and the tenant doesn't pay money owed to the landlord within 30 days, then the landlord must file a [FORECLOSURE](#) action in court. After a complex legal procedure set forth in Colorado law, the landlord may sell the tenant's property to recover the money owed by the tenant. If the landlord sells or otherwise disposes of the tenant's property without properly complying with Colorado law, the tenant is entitled to bring a court action to recover the value of the property or \$100 (whichever is greater) and reasonable attorney's fees. The landlord may be liable to the tenant for actual and [PUNITIVE DAMAGES](#) if the landlord wrongfully takes the tenant's property. Lockouts by landlords are illegal, but a tenant who is unlawfully locked out could still be arrested for disturbing the peace if an argument with the landlord erupts in the process of re-entry.

Encyclopedia of Everyday Law: Landlord/Tenant Rights

CONNECTICUT: By law the temperature of the rental unit must stay above 65 degrees in the winter. The landlord must also keep the rental unit free of rat and roach infestations. No peeling paint or broken windows are allowed. Security deposits must be returned within 30 days from date of move-out. Security deposits must be kept in an escrow account in a Connecticut bank. Security deposit cannot exceed two months rent. This limit is reduced to one month's rent if a tenant is 62 years of age or older.

DELAWARE: Rental agreements for period longer than one year must be in writing. The security deposit may not be more than one month's rent if the rental agreement is for one year or more. A security deposit must be held in a federally insured bank with an office within the State of Delaware. The account must be called a security deposit account and cannot be used in the operation of the business of the landlord. The landlord must disclose to the tenant the location of the security deposit account within 20 days of the receipt of a written request for that information, or the landlord forfeits the security deposit. A landlord may not charge any non-refundable fee as a condition for the tenant living in the rented unit, unless that fee is an optional service fee for actual services rendered to the tenant. Delaware has special provisions whereby a tenant may terminate a rental agreement early by giving the landlord 30 days written notice. These provisions include job transfer in excess of 30 miles, serious illness, admission into a senior citizens facility or retirement home, admission into a subsidized rental unit, military service, and death.

FLORIDA: A landlord may not prohibit waterbeds, unless the local building code bans them. However, renters with waterbeds must carry a "reasonable amount" of liability insurance on the bed payable to the building owner. **DEDUCTION** notices regarding security deposits must be sent to the tenant within 15 days of move-out; otherwise the landlord loses the right to take any deductions at all. If the landlord has the security deposit in an interest-bearing account, the landlord must pay the tenant either 5% interest or 75% of the account's interest rate.

GEORGIA: Georgia law requires that before the tenant pays a security deposit and moves into the rental unit the landlord must give the tenant a complete list of all existing damages. Georgia law does not require the landlord to place the security deposit in an interest bearing account nor does the law require that any interest that is earned be paid to the tenant. The landlord has 30 days to return the security deposit after the tenant terminates the lease.

HAWAII: To bring an eviction action, the landlord must first serve a five day notice to vacate the premises. This notice can be posted on the rental premises

IDAHO: Idaho law says nothing as to whether the landlord has the right to enter the premises. If the rental agreement does not address the landlord's right to enter the premises, the landlord should notify the tenant as to the necessity of entry, requesting permission to enter in a reasonable manner. Security deposits should be returned within 21 days but in no case later than 30 after the tenant vacates. If a tenant fails to pay rent or violates any term of the rental agreement, the landlord must give the tenant written notice of the violation and provide three days in which the tenant can remedy the problem. The notice informing the tenant of the violation must be delivered to the tenant personally, or a copy of the notice may be left with some person of suitable age and discretion at either the tenant's residence or place of business. If this form of communication proves impossible, the landlord may post the notice in a conspicuous place on the property and a copy must be mailed to the tenant at the address where the property is situated. If a landlord pursues formal [LEGAL PROCEEDINGS](#) for the purpose of evicting a tenant due to nonpayment of rent, the trial must be held within 12 days from the time the lawsuit is filed in court.

ILLINOIS: The Illinois Retaliatory Eviction Act prohibits landlords from evicting tenants for complaining to any governmental authority. There is no limit on the amount of security deposit a landlord can require; however, the landlord must pay the tenant interest on the security deposit if it is held for at least six months and there are at least 25 rental units in the complex. The landlord must pay the interest to the tenant or apply

Encyclopedia of Everyday Law: Landlord/Tenant Rights

the interest as a credit to rent every 12 months. Security deposits must be returned within 45 days of tenant move out. Any security deposit wrongfully withheld by the landlord is subject to double damages. Leases running year-to-year require a 60-day written notice. Evictions require a 10 day notice. Lockouts and utility shutoffs are prohibited.

KANSAS: "Party shack" laws prohibit certain activities in rental unit, including gambling, promoting [OBSCENITY](#), prostitution, or the use or possession of controlled substances. Under these laws, unlawful activities can subject a tenant to eviction. The three-day notice used for non-payment of rent has been narrowly defined as any 72-hour period with additional time requirements when mailed. Security deposits must be returned with 14 days of tenant move out with wrongfully withheld amounts being subject to damages of one and a half times the amount of the security deposit.

MAINE: Evictions require a seven-day notice, and the tenant can cure within the seven days by paying the rent. The tenant can also cure prior to the court case being held by paying all rent, cots and fees due. The notice cannot be served until the tenant is seven days or more behind in rent. It can be served personally. If the tenant owes back rent, the landlord can keep any property left on the premises and may ultimately sell it.

MARYLAND: Tenants can cure by paying the rent owed, plus court costs, up until the time the sheriff arrives to evict the tenant. This is known as the tenant's "right to redeem." The tenant can exercise this right three times within a 12 month period, at which point the landlord no longer has to accept the rent. Security deposits must be returned within 45 days of tenant move out.

MASSACHUSETTS: If there is a security deposit, the landlord must give a written statement of the condition of the rental property to the tenant within ten days after the beginning of the tenancy and must deposit the money in a separate interest bearing account. The landlord must also give the tenant a signed receipt listing the name of the bank and account number where the security deposit is held. If the landlord fails to do so within 30 days, the tenant is entitled to get the security deposit immediately returned. Late charges are not permissible unless the rent is more than 30 days late. Massachusetts has designated Housing Courts with judges specializing in this area. Either party can request eviction cases be transferred to the Housing Court; however, doing so may limit the parties' [APPELLATE](#) rights.

MICHIGAN: The landlord must provide a seven-day notice prior to bringing an eviction action. Lockouts, shutting of utilities, and physically moving out tenant possessions are illegal landlord actions, and the tenant may sue the landlord for such acts. State law prohibits the renting of cellars for living purposes. A cellar is defined as having 50% or more of the outside walls below ground level. A basement where more than 50% of the outside walls are above ground can be lawfully rented, but a cellar must meet specific minimum standards before being rented. The only way a cellar can be legally rented is if it has received a variance from the local housing or health department. Security deposits are regulated by the Michigan Security Deposit Act. This law applies to all tenants in the state and to all subtenants and encompasses both verbal and written leases. The total security deposit charged cannot exceed one and a half times the monthly rental rate. The landlord must deposit the security deposit into a regulated financial institution. The name and address of the institution must be given to the tenant upon rental and the landlord may only use the money if a bond is posted with the Secretary of State's Office. Even if a bond is posted, the deposit remains property of the tenant. Landlords must return the security deposit to the tenant within 30 days of the tenant's moving. Landlords may keep the interest earned on security deposits.

ANN ARBOR: It is illegal for the landlord to include a cleaning [WAIVER](#) as part of the lease without compensation to the tenant. Ann Arbor City Housing Code prohibits cleaning waivers; however, it does not prohibit agreements between landlord and tenant that provide for the tenant to clean the unit in return for compensation.

Encyclopedia of Everyday Law: Landlord/Tenant Rights

NEBRASKA: Evictions require a three-day notice, and tenants must respond to any [SUMMONS](#) and complaint in writing. If the tenant does not respond in writing, the landlord can obtain a [DEFAULT JUDGMENT](#). No unit may be rented until it contains safe heating equipment, which heats the entire unit. Security deposits cannot exceed one month's rent unless there is a pet and the landlord requires a pet deposit. The landlord must return security deposits within 14 days after a tenant requests it.

OMAHA: A city code inspector may not come out to a rental unit to inspect unless the tenant has given the landlord a 14 day notice of the problems.

NEW HAMPSHIRE: New Hampshire law requires landlords to provide safe, sanitary housing for tenants. By law, rental properties will not meet this standards if any of the following are present: bugs, mice, or rats, (unless the landlord is conducting a routine inspection and extermination program; internal plumbing that does not work or a back-up of sewage caused by a faulty septic or sewage system; bad wiring, such as exposed wires, the wrong connectors, bad switches or outlets, or other conditions that create a danger of electrical shock or fire; leaking roof or walls; falling plaster from the walls or ceilings; large holes in floors, walls, or ceilings; porches, stairs, or railings are not structurally sound; insufficient water, or broken water heater; leaks in the gas lines; improperly installed heating facilities or heating facilities which cannot safely and adequately heat all livable rooms and bathrooms to an average temperature of at least 65 degrees or if heat is included in the rent, the premises are not actually kept at a minimum average temperature of 65 degrees in all livable rooms.

NEW MEXICO: A landlord cannot charge a tenant more than one month's rent as a deposit on any lease of less than a year. If the lease is for a year or more, the landlord may collect a deposit of more than one month's rent but must pay the tenant current passbook interest on the whole deposit. The landlord has 30 days from the end of the tenancy in which to return the security deposit. Evictions for non-payment require that the landlord give a three-day notice then go to court to file for a "writ of [RESTITUTION](#) of property." The landlord may not lock the tenant out or remove tenant property without a court order. If a tenant does not request any type of service to be performed in the residence, the landlord must provide the tenant with a written 24 hour written notice before entering the premises.

NEW YORK: In New York City, landlord-tenant disputes generally fall into two categories: nonpayments, where the tenant has not paid rent, and holdovers, where the landlord alleges the tenant has violated the terms of the lease. These disputes are generally heard in New York City Housing Court which is part of the New York City Civil Court system. If the Housing Court orders an eviction, a 72-hour Notice of Eviction is sent by a city marshal. New York City residents can call the number on the notice to find out what day the marshal has scheduled the eviction. The eviction could take place at any time within the 72 hours.

NORTH CAROLINA: Security deposits cannot be more than two months' rent. Late charges cannot exceed \$15 or 5% of the rent payment, whichever is more. Late charges cannot be assessed unless the tenant is at least five days late on the rent. The landlord is required to maintain in good and safe working order and promptly repair all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances supplied, but only if the tenant first advises the landlord of needed repairs in writing. If the repairs are emergency ones, the landlord must fix the problem once the landlord becomes aware of the problem, regardless of whether the tenant has given written notification. If the tenant repairs an emergency problem, the landlord must reimburse the tenant, regardless of prior notice. The tenant can agree to perform some or all of the landlord's maintenance duties, but the parties must make an agreement separate from the lease, and the tenant must be compensated.

NORTH DAKOTA: The security deposit cannot exceed the amount of one month's rent or \$1,500. This amount includes any extra pet deposits. The landlord must deposit the money in a federally insured interest-bearing savings or passbook account. The landlord may apply the security deposit money and accrued

Encyclopedia of Everyday Law: Landlord/Tenant Rights

interest upon termination of the lease toward any damages suffered through the [NEGLIGENCE](#) of the tenant, unpaid rent, or costs of cleaning and repairs which were the tenant's responsibility. Any tenant property with a total estimated value of no more than \$1,500, which has been left for at least 30 days in the vacated premises, becomes the property of the landlord to dispose of or sell, without notice to the tenant. Additionally, expenses for storing or moving the property which exceed proceeds from the sale can be deducted from the security deposit. Security deposits must be returned with 30 days of the termination of the lease or the landlord may be subject to treble damages for amounts wrongfully withheld.

OHIO: To bring an eviction action, the landlord must first serve a three-day notice to vacate the premises in person, by mail, or at the premises. A landlord may enter a tenant's unit only after giving a 24-hour notice, except in case of emergency. Landlords may not enter at an unreasonable time or in an unreasonable manner. Tenants may seek injunctive relief from the courts if landlords abuse their right of access. State law requires landlords to evict tenants when the landlord has information from a law enforcement officer, based on a legal search, that the tenant, the tenant's guest, or a member of the tenant's household is involved in drug activity in connection with the premises. In some areas of the state, landlords may be held liable for repeated drug violations in their properties.

OKLAHOMA: All security deposits must be kept in an escrow account by the landlord. When the lease is terminated, any security deposits may be used to pay the balance of rents due or for repairs to the dwelling; however, the landlord must provide an itemized statement of what is kept and for what the amount is kept delivered to the tenant. The balance of the deposit must be returned within 30 days of the termination date of lease or termination of tenancy if the tenant sends a written demand for the return of the deposit. If the tenant fails to demand in writing the return of the deposit within six months, the deposit becomes the landlord's money.

OREGON: A landlord may evict a tenant based on a 72-hour notice for non-payment of rent, if the tenant fails to pay rent within seven days of its due date. If the tenant fails to pay the rent within the 72 hours, the landlord may immediately file a court eviction proceeding. In calculating the seven-day period, the day the rent is due counts. The landlord may not evict a tenant on 72 hours' notice for non-payment of rent when the only money owed is a late charge. If a written agreement states the landlord can give notice after four days, only four days of default are required. The notice must give the tenant 144 hours to pay the rent in that case. Notices may be served by either personal delivery or by first class mail. Oregon law does require that the landlord return the deposit within 31 days after the tenancy ends.

PENNSYLVANIA: For evictions, notice time should be written in the lease. For verbal leases, the landlord must give 15 days' notice prior to filing for eviction for non-payment of rent. State law allows the tenant to pay the amount of the money judgment up to the time of the scheduled eviction to save the tenancy; however, this money must be paid to the constable not directly to the landlord. Even after a court ordered eviction, tenants have 21 days before the tenant is required to move out. Lockouts and utility shutoffs are not allowed. Security deposits limited to no more than two months' rent as a security deposit in the first year of residence and no more than one month rent thereafter. The landlord has 30 days to return the security deposit and if this is not done, the tenant can collect double the amount that would have been due after any damages are taken into account.

RHODE ISLAND: Evictions require that the landlord send the tenant a five-day notice. An elderly (age 65 or older) tenant may terminate a written lease agreement if entering a residential care/assisted living facility, a nursing facility, or a private or public housing complex designated by the federal government as housing for the elderly. A landlord must give a minimum two-day verbal or written notice when needing to enter a tenant's rental unit. Entry should be during reasonable hours and only for such legitimate business reasons such as inspections, repairs, alterations, supplying necessary services, or showing the unit to potential buyers or renters.

Encyclopedia of Everyday Law: Landlord/Tenant Rights

SOUTH CAROLINA: Security deposits must be returned with 30 days of the termination of tenancy. A five-day written notice is required unless the lease provides that no such notice need be given. Lockouts and utility shutoffs are illegal. Once a tenant is served with eviction papers, the tenant has ten days to answer. If the tenant does not answer in court, the landlord can obtain an ejectment order to evict the tenant without further court proceedings.

TENNESSEE: The landlord cannot turn off utilities while a tenant is living in the rental unit, even if the tenant is in default on the lease. Lockouts are not permitted. If the landlord refuses to make repairs within 14 days after a written request from the tenant, the tenant can break the lease and can sue the landlord for damages caused by the landlord's refusal to make repairs. A 30-day notice is required prior to filing for eviction for non-payment of rent unless the lease provides for a waiver of notice.

TEXAS: Texas law requires a three-day notice for eviction for breach of the lease unless the notice provides for a shorter or longer notice period. If utilities are part of the rent payment, the landlord can cut off the utilities but must give a five-day written notice of intent to do so, and the tenant must be at least seven days late in paying the rent. The landlord may legally change the lock on the tenant's door when rent is delinquent but must first give the tenant at least three days advance written notice of intent to change the locks if the rent is not paid. The landlord must also leave a statement attached to the outside of the door explaining where the tenant may acquire a new key. By law, the landlord must give the tenant the key when requested, even if the tenant has not paid rent. The landlord has 30 days to return the security deposit after termination of the lease.

VERMONT: Evictions require a 14-day notice, which may be hand delivered to the tenant. A landlord can enter a rental unit only with 48 hours advanced notice, only 9:00 a.m. and 9:00 p.m., and only to either, inspect the premises, make necessary repairs, or show the unit. Landlords must supply heating facilities capable of safely and adequately heating all habitable rooms. Heating facilities must be able to maintain the heat at the minimum temperature of 65 degrees Fahrenheit when the outside temperature is 15 degrees Fahrenheit. The Code forbids the use of space heaters with a flame that is not properly vented to a chimney or duct leading to the outdoors. If heat is included in the rental charge, it is the landlord's responsibility to provide adequate heat whenever the outside temperature is below 55 degrees Fahrenheit, regardless of the time of year. The Code forbids a landlord to turn off required utilities, "except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies." Thus, it is illegal for a landlord to shut off a tenant's heat, water, or electricity under most circumstances.

BURLINGTON: People who suffer discrimination in rental units may file a complaint either under the Burlington Housing Discrimination **ORDINANCE** with the Burlington city attorney's office or under the Vermont Fair Housing Act with the **HUMAN RIGHTS** Commission. If a tenant complains about problems to a housing inspector, and the inspector determines that the problems are code violations, any attempt by the landlord to evict the tenant within 90 days after the landlord has repaired the problems is presumed to be an act of retaliation. Security deposits can be no more than one month's rent and must be placed into an interest-bearing account, with an interest rate at least equivalent to a current Vermont bank passbook savings account. The tenant is entitled to the interest.

BARRE: Security deposits are limited to one month's rent, and tenants are entitled to the interest.

VIRGINIA: Evictions require a five-day notice, which may be sent with a certificate of mailing or posted on the door by the county sheriff's department. The notice should name each person on the lease and specify the sum due. Until the court date a tenant has the [LEGAL RIGHT](#) to avoid eviction by paying the landlord the full amount due (including reasonable attorney's fees and late charges as well as rent). A tenant may exercise this right only once in any 12-month period with the same landlord. The Virginia Residential Landlord and Tenant

Encyclopedia of Everyday Law: Landlord/Tenant Rights

Act protects tenants from certain types of retaliatory eviction. A tenant otherwise in compliance with the lease cannot be evicted simply for complaining to the landlord about a violation of state law or the county housing code, complaining to County Community Inspections about a serious code violation, organizing or joining a tenants' association, or testifying against the landlord in court.

WASHINGTON: All leases beyond one month must be in writing. Leases of more than one year must also be notarized.

SEATTLE: The Rental Agreement Regulation Ordinance declares that month-to-month rental agreements cannot contain minimum stay requirements, and requires landlords to provide tenants with a summary of landlord-tenant laws. Seattle's Just-Cause Ordinance protects city renters from retaliatory evictions. Additionally, landlords of city tenants are required to give at least 60 days written notice when housing costs are increased by 10% or more in a year.

WISCONSIN: Landlords may not advertise or rent condemned property. Landlords must disclose any uncorrected housing code violations of which they have received notice and must also reveal any other defects which may be a substantial hazard to health or safety, such as structural defects, a lack of hot and cold running water, or serious plumbing or electrical problems. If the heating unit is incapable of maintaining temperature of at least 67 degrees Fahrenheit, this fact must also be disclosed. If the dwelling unit is one of several units, which are not individually metered, the landlord must disclose how utility charges will be allocated among the individual dwelling units. A landlord has the right to inspect, repair, and show the premises at reasonable times. Except for emergency situations, the landlord may only enter after a 12-hour advance. There are no statewide rent controls in Wisconsin. There is no state law limiting amount of a rent increase.

Month-to-month tenancy requires a notice of termination at least 28 days prior to the next rent due date. An initial five days notice is required prior to filing eviction proceedings with the tenant having the option to pay and/or cure the default. But on a second default, the landlord can terminate on 14 days notice without giving the tenant an opportunity to pay or cure the default. Holdover tenants can be obligated to pay twice the amount of the rent, prorated on a daily basis, for each day of unlawful occupation of the premises. The landlord must return security deposits within 21 days and may deduct for unpaid rent or physical damages for which the tenant is responsible. State law does not require payment of interest on security deposits.

Additional Resources

Guide to Being a Smart Landlord. Edwards, Casey F. and Susanna Craig, Macmillan Publishing, 2000.

How to Negotiate Real Estate Leases: For Landlords and Tenants. Warda, Mark, Sourcebooks, 1998.

Landlording: A Handy Manual for Scrupulous Landlords and Landladies Who Do It Themselves. Robinson, Leigh, ExPress Publishing, 2001.

Organizations

National Housing Institute

439 Main Street, Suite 311

Orange, NJ 07050 USA

Phone: (973) 678-9060

Fax: (973) 678-8437

URL: <http://www.nhi.org/index.html>

The Tenants Union

3902 S. Ferdinand St.

Seattle, WA 98118 USA

Phone: (206) 723-0500

Fax: (206) 725-3527

URL: <http://www.tenantsunion.org>

Copyright Notice

©2010 eNotes.com, Inc.

ALL RIGHTS RESERVED.

No part of this work covered by the copyright hereon may be reproduced or used in any form or by any means graphic, electronic, or mechanical, including photocopying, recording, taping, Web distribution or information storage retrieval systems without the written permission of the publisher.

For complete copyright information, please see the online version of this work:

<http://www.enotes.com/everyday-law-encyclopedia>