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## Landlord-Tenant

### Housing Rights Protection

Various federal, state and local laws and ordinances protect housing rights. The Federal Fair Housing Act of 1968 makes it illegal for a landlord to discriminate because of a person's race, sex, national origin or religion. Some local laws forbid discrimination against unmarried persons, children, homosexuals, disabled persons or others.

Washington has a Residential Landlord-Tenant Act which defines the minimum duties of landlords and tenants of residential dwellings. These laws also impose certain restrictions and provide remedies if one party fails to carry out a duty. The remedies include eviction, reduced rent, self-help repairs, the right to sue for money damages, and an award of attorneys' fees to the successful party. Generally, the provisions of the act may not be waived by the landlord or tenant.

Housing codes and other local ordinances have also been enacted in many communities to set minimum standards for living conditions and to further regulate landlords' and tenants' rights and duties. For example, the City of Seattle requires disclosure of specific information and prohibits certain lease provisions. For information on local ordinances, contact the city council, city attorney or other official where you live.

Landlords and tenants of mobile homes are subject to the rules of the Mobile Home Landlord-Tenant Act; a summary of this act is available from the state Attorney Generals' office.

### Rental Agreement

When a landlord and tenant agree to the terms for the rental of property, whether orally or in writing, a tenancy is created. The agreement between the landlord and tenant governing the tenancy is called a lease or a rental agreement. It establishes a tenant's right to use property for a specified length of time in exchange for payment of rent. The property owner is called the "landlord" or the "lessor." The person who is entitled to occupy property is called the "tenant" or "lessee."

As with any contract, the rental agreement should be in writing to avoid misunderstandings and should contain all of the terms agreed to by the parties. Before you enter into a rental agreement, you should read it carefully and discuss all of the terms and make sure any questions you have are answered. Any changes to the lease should be marked on the document and initialed by both parties.

The most common type of tenancy is a periodic tenancy, for example, a week-to-week or month-to-month tenancy. A periodic tenancy is automatically renewed unless either the landlord or the tenant gives written notice to terminate the tenancy at least 20 days prior to the end of the month. The tenancy cannot be terminated in the middle of any month unless the landlord agrees. Similarly, the landlord cannot terminate the tenancy except at the end of the month and only after twenty 20 days' prior written notice to the tenant.

Another type of tenancy, usually called a "tenancy for a specific term," is for a definite period of time, for example, a lease for one year. This type of agreement **must be in writing** and, if for longer than a one-year term, the signatures of the landlord and tenant must be notarized. The tenancy automatically terminates at the end of the specified rental period. Neither the rent nor the other rules of the tenancy may be changed during the specified period, except by agreement of both the landlord and the tenant. Except in particular circumstances like a major breach of the lease by the landlord, the tenant cannot break a lease.

Rental agreements for furnished homes or apartments should contain a detailed inventory of furniture or other personal

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property, along with a description of the condition of each item.

The rental agreement should cover all of the specifics of the arrangements, including who is responsible for utility charges, upkeep, repairs or alterations.

Just because something is agreed to in a lease does not necessarily mean it is enforceable by the landlord. Some clauses may be illegal, such as a waiver of rights under the Residential Landlord-Tenant Act, or limitations on the landlord's liability for injury or damages.

### **Rental Precaution**

Before renting property, a tenant should inspect the dwelling to be sure it meets his or her needs and is in acceptable condition. Upon moving in, make a list of all existing defects or damages, with both the landlord and tenant signing and keeping a copy of this list. Any commitments made by the landlord (such as a promise to make certain repairs) should be written into the lease, and all blank spaces should be filled in or crossed out.

### **Rent Increase**

If there is a lease for a specified period of time, the rules of the tenancy, including the rent, may not be changed during that period. In the case of a periodic tenancy (such as month-to-month rental agreement), the rules, including the rent, may be changed upon 30 days' written notice. Rent increases cannot be in retaliation for the tenant's assertion of his or her lawful rights. The landlord may charge a late payment fee if the rental agreement expressly provides for the charging of a late fee.

### **Termination of a Tenancy**

In addition to the procedures to end a tenancy as previously explained, if a landlord seriously violates his or her obligations under the rental agreement, a tenant may be able to terminate the tenancy without liability.

A landlord must follow certain procedures to terminate a tenancy. To terminate a periodic tenancy, a landlord must give at least 20 days' written notice prior to the end of the month. However, if the tenant violates his or her obligations, for example, by failing to pay the rent, the landlord may terminate the lease through eviction proceedings. When a tenant is being evicted because of a rule excluding children or because of conversion to condominiums, 90 days' notice is required.

If either party wishes to terminate the lease because of violations of the rental agreement by the other party, such action must comply with the terms of the agreement and landlord-tenant laws. A tenant who breaks a lease and moves without giving proper notice may be responsible for the rent for the balance of the term, and the landlord must make a reasonable effort to relet the premises in order to mitigate (or reduce) the damages. The liability and duties of each party vary depending on the terms of the rental agreement.

### **Deposit Requirement**

A landlord may require a deposit to ensure that the tenant takes care of the unit and complies with the terms of the rental agreement. Deposit requirements cannot be discriminatory, nor may a deposit be increased to retaliate against a tenant. A nonrefundable fee cannot be called a "deposit." A refundable damage or security deposit must be distinguished from nonrefundable cleaning fees.

If a deposit or nonrefundable fee is charged, the lease or rental agreement must be in writing, and must include the terms and conditions under which any deposit will be returned. A deposit cannot be withheld for normal wear and tear. If a tenant pays a deposit, the landlord must provide a document describing the condition of the rental unit. The landlord is required to keep deposits in a trust account, and must also provide the tenant with a receipt and the name and address of the depository. Any interest earned on a deposit belongs to the landlord.

The landlord has 14 days after a tenant moves out to return a deposit, or give a written explanation of why it (or any part of it) was not refunded. If a landlord does not comply, the full amount of the deposit must be refunded to the tenant, regardless of any claims by the landlord that the tenant is not entitled to a refund.

### **Landlord Obligations**

The landlord must provide and maintain the rental property, and must obey the rules of the rental agreement. The landlord (or his/her representative) must be accessible to the tenant and must:

- keep the premises up to code;
- maintain the roof, walls and structural components;
- keep common areas reasonably clean and safe;
- provide a reasonable program for control of pests;
- provide necessary facilities to supply heat, electricity, and hot and cold water;
- provide reasonably adequate locks;
- maintain appliances furnished with the rental unit; and
- comply with any duties imposed by local laws.

The landlord may not knowingly rent property that is condemned. If a landlord fails to perform his or her duties, three types of remedies may be available to the tenant:

1. The right to terminate the rental agreement and move out after giving written notice to the landlord.
2. The right to initiate litigation or arbitration proceedings.
3. The right to make limited repairs and deduct their cost from the rent.

In general, before exercising any of the Landlord-Tenant Act's remedies, the tenant: (1) must be current in rent payments, and (2) must give the landlord written notice of the defective condition.

### **Tenant Obligations**

The tenant must:

- pay rent;
- keep the premises clean and sanitary;
- not damage or permit damage to the unit;
- dispose of garbage;
- properly use fixtures and appliances;
- restore the property to its initial condition, except for normal wear and tear at the end of the term;
- comply with the rental agreement.

If the tenant fails to perform his/her duties, the landlord may seek to evict the tenant. If a tenant fails to maintain the premises, the landlord may:

- Evict the tenant.
- Make repairs and bill the tenant.
- Sue the tenant for damages or to force compliance with the rental agreement.

### **Upkeep and Repairs**

The landlord must maintain the premises in compliance with specific building codes and local ordinances; common areas must be kept clean and safe; facilities and appliances must be in reasonably good working order. Damage caused by weather, acts of God (such as earthquake, accident), or damage caused by unknown third parties are generally the responsibility of the landlord.

A tenant has certain responsibilities to keep the unit clean and safe, and may not deliberately or negligently destroy, damage or remove any part of the premises and must notify the landlord (in writing) when major repairs are needed.

Once notified of a defective condition and unless circumstances are beyond the landlord's control, the landlord has a certain amount of time to make repairs:

- 24 hours to restore lost heat or water or remedy a condition that is imminently hazardous to life;
- 24 hours to provide hot or cold water, heat or electricity;
- 72 hours to repair major plumbing fixtures and, if supplied by the landlord, the refrigerator, range and oven;
- not more than 10 days for other repairs.

### **Withholding Rent for Repairs**

Except for the limited right to make minor repairs and deduct their cost from the rent, a tenant has no right to withhold rent. The cost per repair may not exceed certain limits and reasonable notice to the landlord is required.

### **Insurance**

Unless the rental agreement provides otherwise, the tenant has no obligation to insure the premises. However, tenants should consider purchasing renter's insurance on personal property and liability insurance for claims by third parties (such as guests) for personal injuries occurring on the premises, since the landlord's insurance covers only the property.

### **Pets**

Landlords may prohibit pets or establish their own rules or restrictions pertaining to pets. For example, landlords may require references and extra fees to cover special cleaning.

### **Right of Entry**

In general, with tenant consent, a landlord has a right of entry to inspect the premises; make repairs; supply necessary or agreed services; or show the property to potential tenants, purchasers or contractors. Entry is limited to reasonable times, and two days' notice of intent to enter is required. A landlord may enter the premises without the tenant's consent if an emergency or abandonment occurs, or if the landlord obtains a court order. A landlord may not abuse his or her right of access to the premises to harass a tenant.

### **Eviction**

The action by a landlord to remove a tenant from a rental unit is known as an eviction or an "unlawful detainer." Some local housing codes define "just cause" for an eviction and outline procedures that must be followed.

In an eviction based on nonpayment of rent, a tenant may assert any claim for money owed the tenant by the landlord. The tenant's claim (sometimes known as an equitable defense or setoff) must be related to the tenancy, such as the tenant's payment of a gas bill that was the landlord's responsibility under the rental agreement. In eviction actions strict rules and procedures must be observed. Generally, a legal eviction process involves:

- Proper notice. Before evicting a tenant, the landlord must serve the required eviction notices using proper procedures.
- Filing of a lawsuit. If the tenant fails to move out, a lawsuit must be filed to evict the tenant.
- Entitlement to a court hearing. If the tenant disputes the reasons for the eviction, the tenant is entitled to a court hearing.
- Sheriff's involvement. If the tenant loses the court hearing, the sheriff would then be ordered to physically evict a tenant and remove the property in the unit. Only the sheriff, not the landlord, can physically remove a tenant who does not comply with an eviction notice and only after an unlawful detainer lawsuit has been filed.
- Liability for attorneys' fees. In an eviction dispute, the successful party is entitled to recoup costs and attorney fees.

### **Prohibited Eviction**

Landlords are generally prohibited from locking a tenant out of the premises, from taking a tenant's property for nonpayment of rent (except for abandoned property under certain conditions), or from intentionally terminating a tenant's utility service. Various penalties exist for violating these protections.

Retaliatory evictions are also illegal. A landlord may not terminate a tenancy or increase rent or change other terms of the rental agreement to retaliate against a tenant who asserts his or her rights under the Landlord-Tenant Act or reports violations of housing codes or ordinances.

### **Settlement of Disputes**

The landlord and tenant may agree to arbitration, asking a neutral party to settle the dispute. The process is usually quick and inexpensive, with the administrative fee shared equally unless otherwise allocated by the arbitrator. Landlord-tenant problems can also be resolved through informal mediation. In

mediation, a third person intervenes between two disputing parties in an effort to reach an agreement, compromise or reconciliation. Intended to settle a dispute quickly and inexpensively, mediation can be requested by either a landlord or tenant and may be available without charge from city or county agencies. If they are dissatisfied with the mediation process, the parties may pursue legal remedies.

More information is available on the Attorney General's website at [www.atg.wa.gov/LandlordTenant/default.aspx](http://www.atg.wa.gov/LandlordTenant/default.aspx).

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*This pamphlet was prepared as a public service by the Washington State Bar Association. It contains general information and is not intended to apply to any specific situation. If you need legal advice or have questions about the application of the law in a particular matter, you should consult a lawyer.*

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