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LANDLORD AND TENANT RIGHTS AND DUTIES UNDER OHIO LAW

INTRODUCTION

The Ohio Landlord-Tenant Act of 1974 sets out minimum rights and duties of both landlords and tenants. This publication was prepared to raise public awareness of the rights and duties related to renting a home. It should not be substituted for the advice of an attorney. Differing facts and local custom can change the application of the law. However, this publication provides information which may keep problems from occurring. When in doubt, seek qualified legal advice.

DEFINITIONS

Escrow: the legal procedure in which a tenant can notify a landlord of needed repairs and then pay rent to the court.

Forcible Entry and Detainer: The legal term for an eviction action.

Landlord: the owner, lessor, or sublessor of a residence, his agent, or any person authorized by him to manage the premises or to receive rent from the tenant.

Rental agreement: any agreement or lease, written or oral, which establishes the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a residence.

Security deposit: any deposit of money used to secure performance by the tenant under a rental agreement. It is not to be considered as last month's rent unless the parties specifically agree to such.

Tenant: a person who under a rental agreement, either oral or written, has the right to use and occupy a residence.

WHAT THIS BOOKLET DOESN'T COVER

The Ohio Landlord-Tenant Act covers most residential rental situations. The law does not cover:

- Lots in mobile home trailer parks. (These are covered by another Ohio statute - <http://orc.aw.com/title-37/sec-3733/home.html>)
- Owner-occupied condominiums.
- Rooms in boarding schools where the cost of the room and board is included as part of the tuition.
- Farm residences with at least two acres of productive farmland.
- Hotels, motels or tourist homes.
- Prisons, rehabilitation centers, "Halfway Houses," hospital rooms, licensed nursing homes, orphanages, and similar institutions.
- Buildings that are not dwellings (non residential premises).

IN THE BEGINNING

An early understanding between tenants and landlords may produce a long and happy relationship. Both landlords and tenants have rights and obligations which can be enforced by law.

This does not mean every problem can be or should be resolved in court. Cooperation and compromise can prevent or eliminate many landlord-tenant problems.

The first step in becoming a tenant is to find a suitable home - be it a house, apartment, or double. Landlords and tenants should discuss whether the unit available suits the needs and desires of the tenant and whether the tenant is financially capable of making the rental payments. Sometimes landlords require credit references or screening by a credit bureau. Sometimes landlords permit a tenant (who would otherwise be financially ineligible) to have a financially eligible person (such as a parent) co-sign the lease. The co-signer accepts responsibility for the tenant's obligations if the tenant can't pay the rent.

Make sure an agreement is reached on such items as pets, number of tenants, yard upkeep, snow and trash removal, utilities, security deposits and late payments.

THE AGREEMENT

An agreement or contract for the rental property is called a LEASE. Leases can be written or oral (spoken), or implied by the tenant making rental payments to the landlord and the landlord permitting the tenant to use the land- lord's property. Each type of lease is protected under Ohio law. If your lease is in writing, all the agreements should be in writing, signed by both landlord and tenant. Do not sign anything until you are ready and understand what you are signing. Be sure the other party has signed the agreement and keep a copy of any written agreement you make. If you do not understand your lease, see an attorney.

DISPUTES ABOUT YOUR AGREEMENT ARE LESS LIKELY WHEN IT IS IN WRITING, but oral agreements are enforceable in court as well.

INSPECT THE APARTMENT

Before paying any money or moving in, the tenant and landlord should inspect the place together, noting in writing its condition. Regardless of what a lease states, a rental unit must comply with all housing and safety codes.

If the landlord cannot inspect the premises with the tenant, the tenant should make a detailed record of the condition, or even photograph or video tape the unit, noting all defects and should notify the landlord as soon as possible of any needed repairs. Completing a move in inspection sheet or videotaping the unit before the move in will help both parties remember and document the initial condition of the unit and help determine who is responsible for any damages once the tenant moves out.

Never rent a unit you have not inspected. Do not rent a place that will require extensive repairs to be made after the move-in date. Ask for promises to make repairs in writing.

Landlords and tenants should not accept or make payments until both are sure about their decision to rent. **Always get a receipt** showing names, how much was paid, what the payment was for, the address the payment was for, and the date of payment.

Once you have made the decision to rent your home, you would be wise to consider getting renter's insurance. Renter's insurance is very affordable and will protect you from losses you could experience as a result of water damage, fire, theft or other loss to your property. Such loss is usually not the responsibility of your landlord.

SECURITY DEPOSITS

The landlord may require a security deposit. This deposit will be used to cover the cost of damages the tenant might cause to the residence or any rent owed after the tenant moves out. **SECURITY DEPOSITS CANNOT BE USED TO PAY AS THE LAST MONTH'S RENT.** The landlord may require any amount for a security deposit. However the landlord has to pay the tenant 5% interest per year on the amount of the deposit that exceeds one month's rent. For this interest to apply, the deposit must be greater than \$50 and the tenant must live in the unit for at least six months.

Example, if the rent is \$100 per month and the deposit is \$175, 5% interest is due the tenant on the \$75 excess, which would amount to \$3.75 per year.

Many tenants agree to do initial cleaning of the apartment, or do certain repairs in exchange for being credited for a security deposit. You should always put this type of arrangement in writing. A better approach is to ask that you be paid for your labor and

then to pay this back to your landlord, who can then give you a receipt. Often after the work or repairs are completed, there is a dispute as to what was agreed upon and whether the work was adequately done. Be sure to keep receipts of any items bought to do these repairs or for any cleaning supplies if this is your arrangement.

After moving out, tenants have a right to a refund of their security deposit, less any damages caused by the tenant or tenant's guest, and less any unpaid rent. The tenant must give notice to the landlord that they are moving or they will be responsible for another rental payment. Just before moving the tenant should give their landlord a final notice in writing containing a forwarding address. Be sure to include the date this notice was sent and keep a copy of the notice. Within 30 days after the landlord receives this notice and the tenant moves out, the landlord must send the tenant the security deposit balance, if the amount returned is less than the full deposit, the landlord must include a written itemized statement of any deductions for damages or past due rent.

If the landlord does not return the security deposit and statement within thirty days after the tenant moves out; the tenant can sue for the return of the deposit. If the tenant has given a forwarding address in writing to the landlord, the tenant can recover TWICE the amount the landlord should have paid, plus the tenant's attorney fees. Suits for less than \$3,000 can be brought in Small Claims Courts.

In order to avoid hassles in recovering their security deposits, tenants should-

- Keep rent receipts
- Give at least 30 days notice of leaving prior to the end of the rental period. (A form is provided on page 17 of this booklet).
- Request the landlord to inspect the premises with them.
- Leave the apartment in the condition in which they found it-or cleaner.
- Correct damages done by them or their guests.
- Videotape or have a witness note the condition of the apartment upon moving out.
- Return all keys with the written forwarding address form when they move out.
- Know and record the landlord's full name and business address, and those of any rental agents or managers.

DUTIES AND OBLIGATIONS

Under Ohio's Landlord-Tenant Law, both tenants and landlords have duties and obligations which apply whether there is a written lease or not, and whether the lease is for a week or a year. None of the landlord's duties can be shifted to the tenant regardless of what the lease states. Landlord's however, can accept by agreement the duties the law otherwise puts on tenants.

TENANTS' DUTIES

Tenants must perform the following duties whether or not there is a written lease, unless

the landlord specifically accepts the duty. Tenants must obey all applicable laws and housing regulations.

If tenants do not fulfill their duties, they can be sued for money damages, their rental agreement can be terminated, and they can be evicted.

It is best to get any agreements with the landlord in writing.

TENANTS MUST:

- Fulfill their duties or they can be sued for money damages, or their rental agreement can be terminated and they can be evicted.
- Keep the apartment safe and clean.
- Get rid of trash and garbage in a safe and sanitary way. Tenants must provide their own trash containers if the structure has three or fewer dwelling units.
- Keep all plumbing fixtures clean and not stop them up.
- Use all plumbing and electrical fixtures properly.
- Not damage the place or allow guests to do so.
- Keep any appliances like stoves, refrigerators and washing machines in good working order if required by the rental agreement.
- Not bother other tenants or allow their guests to disturb other tenants.
- Allow the landlord to inspect or show the apartment, deliver large packages or make repairs at reasonable times with reasonable (24 hours) notice or immediately in case of emergencies.
- Obey local housing, health and safety codes.

TENANTS' RIGHTS AND REMEDIES

RENT ESCROW:

Tenants in Ohio cannot simply quit paying their rent because the landlord does not make important repairs. Tenants also cannot simply pay a workman to have repairs done and deduct the cost of the repairs from their rent unless the landlord agrees to this. Instead, tenants must follow a legal procedure called rent escrow. Rent escrow means paying your rent to the clerk of courts rather than to your landlord, so economic pressure is put on the landlord to make needed repairs.

In order to escrow rent because of a landlord's failure to make repairs, a tenant must:

- Pay rent up to date.
- Give a written notice to the landlord listing the repairs needed and send the

notice by Certified Mail to the place where rent is normally paid (being sure to keep two copies).

- If the landlord does not make the repairs within 30 days, or a reasonable time in the case of an emergency, whichever is shorter, the tenant can:
- Escrow rent by depositing it with the clerk of the appropriate municipal or county court, and;
- Ask the court to direct that the repairs be made, to reduce the rent, and to release some of the money for making repairs, or;
- End the agreement and move out.

Rent escrow remedies do not apply to landlords who own fewer than four rental units and have delivered written notice of this fact to tenants upon moving in. If the landlord fails to provide the tenant with a written statement of the names and addresses of the owner and agents when the tenant moved in, the landlord waives notice under (2 or Give a written notice...) above.

LANDLORD DUTIES

LANDLORDS MUST:

- Comply with all housing laws and regulations which seriously affect health and safety. - **Most local governments have housing inspectors who can inspect conditions and cite landlords for any violations, condemn property unfit for habitation, and prosecute landlords who refuse to comply with housing code requirements.**
- Keep the premises in a livable condition by making all necessary repairs
- Keep all common or public areas in the building and grounds safe and sanitary.
- Maintain in good working condition all electrical, plumbing, heating and air conditioning systems, fixtures and appliances which the landlord has supplied or is required to supply.
- If the structure contains four or more dwelling units, provide and maintain garbage and waste containers and arrange for trash removal.
- Supply hot and cold running water at all times.
- Give reasonable notice, at least 24 hours, before entering tenants' apartments, unless there is an emergency. - **Landlords may NOT enter tenants' apartments without 24 hours notice unless there is an emergency, and can be held responsible for any damages or injuries caused by their trespassing.**
- Not abuse their right of access to inspect the premises, deliver packages, or show the apartment to prospective tenants or buyers.

- Notify the tenant in writing of the owner's name and address and any agents names and addresses before or when the tenant moves in.

LANDLORDS CANNOT:

- Shut off utilities or other services, change locks, remove doors or windows or threaten to do any other unlawful acts in order to evict tenants.
- Take tenants' personal property to recover possession or past due rent, unless a court has ordered it.
- Refuse to rent to tenants because of children, race, color, religion, national origin, citizenship, sex, disability or familial status. (Local ordinances can give tenants even broader protection from discrimination, such as marital status or age).

A landlord may be able to refuse to rent to you based on your income or based on family size and number of bedrooms (usually determined as 2 tenants per bedroom).

If landlords do any of the above, they can be sued for any damages their tenants may suffer along with their attorney fees, and may be forced by court order to restore utility services, remove padlocks, return tenants' property or rent to the person discriminated against. Additional punitive damages can also be assessed against landlords who deliberately or maliciously violate the law.

LANDLORDS' RIGHTS AND REMEDIES

If tenants fail to fulfill their legal duties or lease agreements, especially if they don't pay their rent when due, their landlords can sue them for money damages, termination of the lease, and eviction from the premises.

If the tenants breach a duty that materially affects health or safety, the landlord must give the tenant a written notice stating when it must be corrected, and allow the tenant at least 30 days to correct the condition. If the tenant does not correct the condition within the time allowed, the landlord can begin the eviction procedure described later.

Landlords can evict tenants for the following reasons:

- Tenants' failure to pay rent when due.
- Tenants' complaint to a government agency about housing violations which were really caused by the tenant or their guests.
- The landlord's compliance with housing law would require alteration or demolition of the building which would deprive the tenant of effective use of the premises.
- The lease has expired.
- Tenant has violated important terms of the lease.

- Tenants' failure to comply with proper notice to correct situations which affect health and safety.
- Tenants' refusal to permit landlord's reasonable access to the unit.

Once your lease has expired and you are on a month to month lease, the landlord may raise the rent with a 30-day notice. (If you are on a week to week lease, the landlord must give you a 7-day notice) Or, if your lease is a month to month lease or an unwritten lease, the landlord can raise the rent with a 30-day notice. The landlord cannot raise your rent if your lease says it cannot be raised.

EVICCTIONS

In addition to any one of the notices described above, tenants are entitled to a three day notice, delivered to the tenant or at the premises, demanding the tenant to move out. This notice must include the following words:

"You are being asked to leave the premises, if you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance."

This is not only a required notice; it is good advice. An eviction notice is the most serious legal problem most people will ever have. It forces a tenant out of a home, and costs the landlord money and lost rental income.

Eviction records are public and can seriously hurt tenants' credit ratings and references. Landlords who fail to follow proper legal procedures can end up owing their tenants damages or delaying even a legitimate eviction for months. Evictions should never be considered lightly and always deserve the attention of a lawyer.

Landlords must deliver a notice to vacate to the tenant at least three days before they file a suit of eviction with the court. The tenant does not have to move out during this time. If the landlord and tenant cannot reach an agreement within these three days or the tenant does not move out, the landlord can file an eviction with the court. This eviction complaint is called a Forcible Entry and Detainer action and will claim either that the lease has expired or that the tenant has violated the law or the lease.

The Court will serve the tenant with a Summons by leaving it at the tenant's residence, by certified mail or personal delivery, notifying the tenant when and where to appear in court. The tenant is entitled to five working days between the service of the summons and the date of the trial. Staped to the Summons will be the landlord's complaint

usually prepared by the landlord's lawyer, asking the court to order the tenants to leave the premises and to pay any unpaid rent. The Summons also tells the tenants to contact a lawyer or the local Legal Aid Society.

If the tenant does not show up for trial according to the instructions on the Summons, the court will probably order the tenant to move out and pay whatever rent is claimed to be unpaid.

If tenants do not want to argue about their evictions but contest the amount of money that is claimed owed to their landlords, they must file a written Answer. The Answer must deny the amount owed and must be filed with the Court according to the instructions on the Summons.

Ordinarily, if the tenants or their attorneys show up and raise questions about the landlord's right to the eviction, the judge will postpone the trial for up to eight days, or more if the tenant pays a bond to protect the landlord's interest.

If the tenant fails to appear in court or the landlord wins the trial, the tenant usually still has up to ten days to voluntarily move out, depending upon what the judge orders. If the tenant does not leave voluntarily the tenant's belongings will be moved and the tenant will be prohibited from returning. In most jurisdictions in Montgomery County the landlord must pay a fee to the bailiff or sheriff to lawfully remove the tenant from the premises, by force if necessary, and out the tenant's belongings in storage. The moving and storage company doesn't have to take all of the tenant's property. Clothes, medicine, food, pictures, and damaged items are usually put in a dumpster. The tenant must pay all storage costs before the storage company will release the belongings from storage. After 3 days the storage company can sell the tenant's property to pay the storage fees. In other jurisdictions, the tenant's belongings are put on the curb. You can check with the clerk of courts to determine what is your local procedure.

TERMINATIONS

If a landlord does not live up to the obligations imposed by law or lease, tenants can terminate the lease and move out after giving the landlord reasonable notice to correct the breach (refer to the section on rent escrow).

If the conditions of the premises are so bad as to make them unlivable, tenants should contact their local housing inspector. This will provide the tenant an expert evaluation and description of the problems.

Landlords and tenants can also end a lease that is not in writing by providing a written notice of their intent to end the agreement and sending this notice as follows:

Month-to-month lease - 30 days prior to the beginning of the rental period

Week-to-week lease - 7 days notice

No reason need be given a tenant or landlord for ending a month to month lease or refusing to renew a lease as long as the proper notice is given to the other party.

Terminations under a written lease must be made according to that lease, but a landlord cannot shorten the notice time a tenant is entitled to by the law.

Even though the landlord does not have to give a reason for terminating a month to month lease or refusing to renew a lease, a tenant can win an eviction by proving the landlord was getting back at the tenant (retaliating) because the tenant tried to organize the other tenants, made honest complaints about conditions, or that the eviction was discriminatory on the basis of race, color, religion, national origin, sex, disability, or familial status. A tenant who proves any of these situations can also recover damages and attorney fees.

CONCLUSION

Almost everyone rents a home at some point in their lives. By reading this information and keeping it for reference, tenants and landlords can make the experience rewarding and profitable.

SOME FINAL HELPFUL TIPS

- Keep a copy of your lease.
- When moving in and when moving out, check the dwelling carefully and have a statement setting out any damages, signed by all parties.
- Keep all rent receipts and never pay in cash without getting a written receipt.
- Obtain renter's or homeowner's insurance.