

## Housing Series

# Landlord - Tenant Relations

## Colorado Gerontological Society

### Renting and Leasing in Colorado

Understanding the responsibilities of both the landlord and the tenant can go a long way in establishing a positive landlord-tenant relationship.

Generally, tenant rights are determined by state law in addition to local housing or health codes. Such codes may differ by city and some cities do not have local housing or health codes. However, there are some general rules that apply for all Colorado tenants.

### Common Lease Provisions

Just because a clause is in a lease does not mean it is enforceable. For instance, agreements that tenants will pay for all damages regardless of fault and agreements that the landlord may enter the unit at any time without notice are unenforceable clauses. Lease agreements tend to differ from one lease to another, but all should contain certain provisions:

- Names of the parties (tenant and landlord)
- Description of rental property (street address, unit number, etc.)
- Term of the lease
- amount of rent
- due date of rent
- Amount of the security deposit
- Which utilities are the tenant's responsibility and which utilities will be covered by the landlord
- Whether the tenant is subject to late fees
- Maintenance responsibilities
- How to contact the landlord for repairs
- Options to renew
- Termination notice requirements
- When the landlord may enter the rental property
- Rules concerning pets

Be sure to read each lease carefully. Make sure you understand each clause in the lease. There can be additional restrictions other than those described above. Some of those can include smoking, marijuana use, noise levels permitted, etc.

### What is a Security Deposit?

A Security Deposit may be called other names such as damage deposit, cleaning fee or last month's rent, but they all mean the same thing - a Security Deposit. The security deposit is held by the landlord during the lease to ensure that all the rent, bills, and damages are paid before the renter moves out. A Security Deposit is usually one month's rent (although there is no limit on the amount of the Security Deposit that the Landlord can charge). Although the Landlord keeps this Deposit while you are renting, it is still your money. If your money is kept in a bank you may receive interest on the Deposit. Read your lease to see if you are entitled to the interest on your Deposit. If not, try to negotiate that with your Landlord before signing a lease.

### Pet Fee

Many landlords impose a "pet fee," in addition to the normal security deposit. A landlord may refuse to rent to you if you have a pet, or may restrict the size or kind of pets. The landlord may also charge you an additional security deposit if you have a pet. A pet deposit or fee for a tenant who keeps a service or companion animal is normally not imposed.



## Deductions or Non-Return of Tenant's Security Deposit

A deduction from your Security Deposit can be taken if the Landlord has suffered a financial damage that is your responsibility. Below are some examples:

- If you did not pay all of the rent
- If you did not pay all of the utilities that are your responsibility
- If you damaged the rental beyond "normal wear and tear" which is defined as: "that deterioration which occurs based upon the use for which the rental unit is intended, without negligence, carelessness, accident, or abuse of the premises or equipment or chattels by the tenant or members of the household, or invited guest."

## Return of a Tenant's Security Deposit

The Landlord has one month from the time you move out unless your lease allows more time (not to exceed 60 days), to return the Deposit or give you an exact and specific (itemized) list of deductions, along with any remaining deposit sent to the last known address.



## Damage to the Unit

Your landlord is responsible for keeping your rental unit in a livable condition. Your landlord must keep the structure of the building sound, including stairways, floors, and roofs; keep electrical, heating, gas, and plumbing systems operating safely; supply hot and cold water in reasonable amounts; and exterminate infestations of pests such as cockroaches.

If a problem is the result of your own carelessness, such as a vermin infestation caused by poor housekeeping, the repair bill will likely be your responsibility. If you don't pay it, the amount may be taken out of the Deposit.

If you suspect bed bugs, contact your landlord or manager right away. Your landlord should bring in a qualified exterminator to inspect for and measure the concentration of bed bugs in your rental (and also

adjoining units). Your landlord should give you proper notice of entry for the exterminator's inspection. For information or to report a bed bug infestation contact the Denver Department of Environmental Health at 3-1-1.

## Warrant of Habitability Law: Justification for Taking Action Against the Landlord

If the premises become uninhabitable, are materially dangerous or hazardous, and the landlord is given reasonable time to fix the problem (a lock might be fixed within 2 days, while a roof may take 2 weeks), the tenant may take action against the landlord if the item is not fixed.

The landlord must be given a second written notice. The landlord has 5 days to fix the problem after the second notice (in most type of buildings). If the landlord fails to fix the problem, the tenant can:

- Terminate the lease early
- Get a court order requiring the landlord to make the repairs (and request attorneys fees)
- Make the repairs and reduce the rent accordingly

Tenants may want to seek legal assistance if these conditions exist prior to taking action. Some of these actions will lead to court involvement.

## Retaliation

A landlord may not discriminatorily increase rent or decrease services or by bringing or threatening to bring an action for possession in response to the tenant having made a good faith complaint to the landlord or to a governmental agency alleging a breach of the warranty of habitability. (C.R.S. 38-12-509)

**SECTION 8 HOUSING.** A federal program that provides housing vouchers to low income individuals. The voucher is used to purchase rental housing in the private market with landlords who agree to participate in the program.

**AFFORDABLE HOUSING.** Households that make below 80 percent of the Denver area median income. For a one-person household, 80% of the area median income is \$43,600; for a four-person household, 80% of the AMI is \$62,250.

**SUBSIDIZED HOUSING.** Rent is calculated and the amount paid is based on 30% of the individual's income. The balance (up to market rate) is paid by Housing and Urban Development).

## Move In – Move Out Check List

Before you decide to rent, you should carefully inspect the apartment with the landlord. Most landlords have a written checklist for this purpose. Look for the following problems:



- Cracks or holes in the floor, walls, or ceiling
- Signs of leaking water or water damage in the floor, walls, or ceiling
- Leaks in the bathroom or kitchen fixtures or other plumbing problems
- Any signs of mold or pests
- Lack of hot water
- Inadequate heating or air conditioning
- Damaged flooring or ceiling
  - Broken windows and window coverings
  - Working appliances (stove, refrigerator, washer/dryer, hot water heater, garbage disposal)

Ask the landlord to review the condition of the apartment with you and come to a signed agreement on the checklist. Save a copy of the check list to compare against when you move out, so you and the landlord agree on the “damages” and “normal wear and tear”.

## Landlord’s Entrance to the Tenant’s Unit

A landlord may generally enter your apartment only for the following reasons:

- In an emergency
- When you have moved out or abandoned the property
- To make necessary or agreed upon repairs or other improvements
- To show the apartment to prospective residents, purchasers or lenders
- To provide entry to contractors
- To conduct an initial inspection before the end of the tenancy as allowed by law
- If a court permits entrance

## Non-Renewal of Lease

For no reason other than to regain control of the property, the landlord can serve a Notice to Quit (C.R.S. 13-40-107) with proper notice meaning you have to move out when the lease expires and the lease will not be renewed. This often happens when the landlord is looking to change the use of the property (for example, from rental units to condominiums).

## Eviction and the Eviction Process

Eviction is also called forcible entry and detainer. Forcible entry and detainer occurs when a person (e.g. landlord) enters onto a land or rented property to take back possession of the property from the tenant, whether by force, threats, or peaceful means. Landlords must strictly follow the Colorado statutory procedures for evictions in order to have a legal eviction. If you are wrongfully evicted, the landlord may be liable for damages. The tenant can voluntarily leave the property on a 3 Day Vacate without court involvement.

## Reasons for Eviction:

- Substantial violation of a provision in the lease such as having unauthorized persons living on the premises or using the property for an unauthorized purpose
- Creating a chronic or public nuisance that affects the health and safety of other tenants or of other people in the community
- Committing criminal acts on the premises
- Non-payment of rent

If you are served court documents for eviction, do not ignore them because the court may enter a judgment against you. This means that because you did not respond to the claim for eviction, the court will side with the other party. The court may award the landlord possession of the property or a monetary amount.

## How an Eviction Works

### 3 Day Notice to Quit

The Colorado eviction process begins with the landlord serving a 3-Day Notice to Quit for violation of the lease. The Notice to Quit must require the tenant to deliver the premises or comply with the conditions or provisions of the lease that are being violated within three days of service of the Notice.

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### Service of Notice to Quit

The Notice to Quit or Demand for Possession must be served on the tenant in one of the following ways: **(1)** Personal service on the tenant **(2)** Personal service on the tenant's family member who is at least 15 years of age **(3)** By posting the notice in a conspicuous place if no one is at the residence.

### Summons and Complaint

Should the tenant refuse to comply, landlord will go to court and file and serve a Summons and Complaint in Forcible Entry and Detainer. The Summons must be served 7 days prior to the date and time of the court hearing.

### Return Date

When the landlord and tenant appear in court, the judge may hear arguments and evidence of both parties or may another date for trial. If the tenant does not appear or does not file an answer, the court can issue a default judgment in favor of the landlord and award possession. If personal service was obtained on the tenant additional damages under the lease may be awarded.

### Trial

If the tenant requests a jury trial the tenant must pay jury fees before he case will be heard. To reduce costs the case can be heard before a judge. At the hearing the landlord and their attorney will provide copies of the rental agreement and evidence proving non-compliance with the lease. The tenant

(or their attorney) will be given the opportunity to present their defense. Any witnesses for either party will need to be subpoenaed.

### Tenant Defenses

Defenses that can be used by the tenant include: **(1)**The landlord failed to repair a dangerous condition **(2)** The landlord breached the implied covenant of quiet enjoyment of the premises. **(3)** Failure of the landlord to keep common areas safe. **(4)** The eviction is in retaliation for complaining about the unit's condition. **(5)** The eviction is based on a tenant's legally protected status such as race, religion, national origin, creed, family status or disability.

### Vacating the Property or Continuing the Lease

If the judge rules in favor of the landlord a Writ of Restitution will be awarded to the landlord and the tenant will have to vacate. If the ruling is in favor of the tenant, the lease will continue.

### Writ of Restitution

If the landlord prevails or is given a default judgment, a Writ of Restitution can be obtained the same day as the judgment and given to the sheriff for service and execution. Depending on the county, the sheriff gives the tenant a date and time to vacate. If the tenant fails to vacate, a time is scheduled to move the tenant's belongings onto the public right-of-way.