

Landlord-Tenant Issues, Rights and Responsibilities

To prevent disputes, or to help settle them, it is important for each party to possess an awareness and understanding of landlord-tenant rights and responsibilities.*

Lease

Certain terms are generally used in the landlord/tenant relationship. One of those is “rental agreement” or “lease”. A rental agreement is a legally binding contract between the landlord and tenant(s). It can be oral or written. A written agreement becomes binding when it is signed and can be for any length of time (an oral agreement cannot be for longer than one year).

Generally, these agreements set forth the time period, the rent amount and due date, the penalty for late payment, and other terms and conditions agreed to by the parties.

Security Deposit

A security deposit is the money paid by the tenant and held by the landlord to pay for damage (beyond ordinary wear and tear), unpaid rent, or any other money owed to the landlord by the tenant(s) under said agreement. Landlords cannot require a security deposit that is more than one month’s rent, unless special conditions exist, which pose a danger to the maintenance of the premises (like a pet). When a tenant(s) moves out, the landlord is required to return the deposit or to provide a written statement showing the specific reason for the failure to return the deposit. The written statement must be furnished within two weeks after the tenancy has been terminated and after the landlord has received the tenant’s mailing address or delivery instruction. The landlord can only withhold such amounts as are necessary to remedy the defaults in the rent payment and/or to restore the premises to its condition at the beginning of the tenancy (except ordinary wear and tear). If the landlord withholds the deposit, the tenant(s) can demand an itemized account of the withheld deposit, which must be provided within forty- five days of the termination of the tenancy. If the landlord does not follow these rules for returning the deposit, the landlord forfeits all rights to it.

Termination

“Terminating a tenancy” means that one of the parties has decided to end the tenancy. South Dakota State law requires one party to give written notice of the decision to terminate the tenancy to the other party – a “notice to terminate”.

Eviction

An “eviction” is a legal proceeding in which a landlord asks a court to order the tenant(s) to leave the property. The first step is delivering a three-day notice to Quit/Vacate to the tenant(s). After the required three days, a Landlord must then have tenant(s) served with a Summons and the tenant(s) is then allowed an opportunity to provide an “Answer to the Complaint”. The matter then can be set for a hearing before the court, which provides both parties with the opportunity to be heard. The final step is an “Execution for Possession” (Lockout). The lockout allows the Sheriff’s Office to remove the tenant(s) from the property. Tenant(s) will then need to schedule with the Landlord, the removal of their items.

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Tenant Rights and Responsibilities

1. Must be allowed to see the rental unit, prior to making any payment or signing any lease. This includes inspecting appliances, the electrical system, plumbing, heating, lights, locks and windows.
2. Must pay rent on time.
3. Must repair all damage to the premises caused by ordinary negligence.
4. Must use ordinary care to preserve the premises in good, safe condition.
5. Must be responsible for the actions of guests, family members and pets within the premises or grounds.
6. Must have a right to possession and "quiet enjoyment" of the property.
7. Must check with the landlord before allowing a roommate or pet to move into the rental unit.
8. Must check with the landlord before attaching anything (shelves, carpeting, etc.) to the rental unit.
9. Must abide by the terms of the lease.
10. May terminate a lease before it expires (1) when the landlord does not, within a reasonable time after request, place and secure the tenant(s) in quiet possession of the premises or put the premises into good condition or repair the premises as needed; (2) when the greater part of the leased premises is destroyed from any cause other than the ordinary negligence of the tenant(s) (fire, flood, etc).

Landlord Rights and Responsibilities

1. Have a right to make reasonable inspection of property, but only with prior notice to the tenant(s) and at a reasonable time, except in an emergency.
2. Must keep rental premises in reasonable repair and fit for human habitation (except for damage caused by the tenant) and in compliance with health and safety codes. This includes maintaining all electrical, plumbing and heating systems and the common areas of the rented property. This cannot be waived or modified by the parties.
3. Cannot lock out a tenant(s) or interrupt electric, gas, water, or other essential services.
4. Cannot hold a tenant's property for payment of back rent or damages to rental property.
5. After notice, must repair the premises fit for human habitation and in good and safe working order. If after a reasonable time the landlord fails to make the needed repairs, the tenant(s) may make the repairs and hold the cost of said repairs in a separate account or otherwise recover the amount from the landlord; or the tenant may vacate the premises.
6. Abide by the terms of the lease.
7. May terminate a lease before it expires (1) when the tenant(s) uses or permits a use of the premises in a manner contrary to the lease agreement; or (2) when the tenant(s) does not within a reasonable time after request make such repairs as he may be bound to make.

*Information provided is pursuant to SDCL 43-32

If individuals believe that they have been discriminated against because of race, color, religion, sex, disability, national origin, family status, ancestry, or creed, they should contact Human Relations/Sioux Falls Fair Housing at 605-367-8745 or email us at humanrelations@siouxfalls.org