

Tenant vs. Landlord: Where the Law Stands

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I am a [by default, in Arizona, a "limited" attorney] Real Estate Broker. Real estate brokers are held to a high standard in tenant and landlord real estate law. Thus, on several Expert web sites, I answer questions about "what can I do, my landlord is....." Or "my tenant has....., what can I do"?

It is known that across America, people move from their primary residence about seven times in their lifetime. Much of that occurs during the summer, either after a vacation or in lieu of one. It is my hope that for those of you in that mainstream who are moving, and I mean from one rental property to another, that these bits and pieces of data will help you so you don't wind up with someone mad at you and money lost.

First, all tenants are lease-holders, in writing or otherwise. IF not specifically a week to week [out of the ordinary but quite legal] agreement, and if not in writing, your lease is a month- to- month. If it is in writing, it is for 2 months or longer. Its duration can be for any mutually agreeable length—agreeable between landlord and tenant. In this data I am not separating property owner from landlord; the law is the same.

LANDLORDS may perform credit checks, ask for security and cleaning deposits, and demand cash. They must provide a clean, safe and working unit [whether bedroom, apartment or house/condo].

If a tenant lies on an application, and if the contract so stipulates that lies are grounds for eviction, the tenant obviously must tell the truth or he can be evicted at any time if a lie is uncovered.

IF the lease is for 1 year or longer, either side, when the calendar shows two months till expiration of the year, inform the other if they intend to stay or if they are to leave, as the side's position may be.

On a month to month, a full month's notice is needed.

WHEN a tenant must leave before the lease expires or before the end of the 30 days; and is sick, suddenly without work, gets a job elsewhere, mom in another state dies, etc., it is not the responsibility of the landlord. No state has an early -OUT provision. One's reason for leaving is not relevant! Yes, if the tenant can get the landlord to waive the current expiration date of the lease and without penalty of any kind, then the tenant's responsibility is eliminated upon exiting the unit. [Presuming the unit is left clean and said condition is mutually agreed upon.]

What may a tenant do, in his/her unit? Anything legal and not against the limitations, if any, of the landlord's lease. CAN a tenant have anyone over as a guest? YES until that tenant becomes a "bother to the peace." IF a guest gets rowdy, and hurts someone, is the tenant responsible? of course!

IF a tenant sells drugs from his unit, can he be evicted? OF course. NO illegal acts may be committed in the tenant's unit or on the grounds!

IF a unit's air conditioning fails, must a landlord fix it! YES, and quickly! I, as an owner, had to replace an AC unit the week after I bought a four plex!

CAN a tenant withhold rent if something goes bad within his/her unit? NO! BUT if the landlord does not fix the problem within 30 days [written notice by the tenant], the tenant may hire that work out, and submit the PAID invoice to the landlord along with reduced rent.

IF a unit has become unsafe--fire, flood, etc, a tenant can leave immediately via the term CONSTRUCTIVE EVICTION.

Can a landlord fight this? Sure. If the landlord can show the tenant is actually responsible for the problem, the tenant must pay for the return to a safe condition and pay rent concurrently.

IF a tenant has an emergency and cannot pay rent, can the landlord throw him out? NO!

ALL tenants must have a judgment against them by a court before a landlord can get the tenant physically removed.

CAN a landlord without notice, enter a tenant's unit? NO.

IF a tenant has paid a deposit and first month rent and finds he cannot move in but must be elsewhere, can the landlord claim both deposit and first month rent? Depends on how soon from time of not being able to move in till lease was to start! A deposit is required because of the concept of LIQUIDATED damages. IF the lease is to start in one week, the tenant will lose his deposit but get back his rent.

I am available to answer questions like this on Kasamba and other expert sites.