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## **Basic Rental Rights**

If you rent your home, a bad relationship with your landlord can make life stressful and can lead to serious problems. One way to avoid this is to understand your basic tenant rights. This section will provide a summary of your rights.

### Leases, rental agreements, and tenancy at will

The kind of agreement you have with your landlord affects your legal rights in Maine. You can have a: lease, rental agreement, or tenancy at will.

- If your landlord has you sign a written agreement that states a start date and end date, you have a lease.
- If your written agreement does not mention an end date, you have a rental agreement.
- If you do not have a written document, you have a tenancy at will. Or, if you had a Lease that ended but you did not move out or sign a new lease, you now have a tenancy at will.

A written agreement may offer you more protection than a tenancy at will. But this is not always true. You need to read the agreement carefully before signing. If your landlord has made promises that are important to you, they need to be in the written agreement. If you ever end up in court, a judge will likely follow what the agreement says. Many of your rights can be changed or even taken away depending on what the written agreement says. Some rights can never be taken from you regardless of what your written agreement says.

Before you sign, look at the following:

- Rental amount;
- Date rent is due;
- Fees for a late rent payment;
- Security deposit;
- Who pays for utilities and services;
- Your responsibilities if you damage or make changes to the property;
- Landlord's responsibilities with regard to the condition of the property; and,
- Notice requirements (for both you and your landlord).

You also want to note the condition of premises when the agreement is signed.

These terms are very important. Make sure that the written agreement matches what the landlord says. Only sign if you agree to all the terms as they are written.

## Understanding your public housing rental agreement

Public housing rental agreements can be very complicated and hard to understand. This is especially true if you are trying to figure out what expenses and income to consider when calculating your portion of the rent.

If you have any questions about your housing agreement, you should talk to an attorney. The attorneys at Legal Services for Maine Elders may be able to help you, or might be able to connect you with a private attorney who can. Call the Legal Services for Maine Elders Helpline at 1-800-750-5353 to speak to an attorney for free.

## Tenant rights in Maine

The following is a list of rights that are given to all tenants in Maine. Some of these rights **can** be changed or waived by your written agreement.

- “Habitability”: Your landlord must guarantee that your rental unit is reasonably safe and fit to live in. This means that it is **not** OK for your rental to have things like: undrinkable water; insufficient heat in winter; faulty electrical wiring; or leaking pipes. Be especially careful if your landlord says the apartment is rented “as is.” This sort of language could mean that the landlord is trying to avoid these responsibilities.

**IMPORTANT NOTE:** Your written rental agreement can waive this right in exchange for a reduction in rent. Make sure you read your rental agreement carefully. If you agree to this waiver, it can be very hard to get your landlord to fix problems with the rental.

- Penalties for late payment: Your landlord can charge a fee for late rent payment if your rent is at least 15 days late. If your landlord is going to charge you this fee, then it must say so in the written agreement. The fee cannot be more than 4% of your monthly rental amount.
- Security deposits: Security deposits can be no more than the equivalent of two months rent and are often much less for subsidized housing. As a general rule, your landlord must return your security deposit, but there are exceptions to this rule. Your landlord may keep your whole deposit or a part of it to pay for any repairs, removal of abandoned property, or any unpaid rent or utilities. Your landlord cannot keep your deposit for normal “wear and tear” such as faded paint and worn carpets. [Click here if you want more general information about security deposits and what they are.](#)

If your landlord is going to keep some or all of your security deposit, your landlord must tell you. This notice must be in writing and give you the reasons. If your lease doesn’t say when the security deposit must be returned, your landlord has 30 days after your lease ends to return your security deposit or provide you with a written notice. If you don’t have a written agreement, your landlord has 21 days.

If your landlord is refusing to return your security deposit, you have some options. [For more information about what your rights are with your landlord and your security deposit, and how to protect those rights click here.](#)

- Metering and electric charges: Unless you agree in your written agreement, your landlord cannot make you pay for electricity used in someone else’s unit or in common areas. This includes areas such as: hallways, stairways, and basements. If you do agree to pay for this, the written agreement should state that you will do this in exchange for a reduction in rent.

- **Landlord entering your rental unit:** For all rental situations, your landlord can enter your rental unit to show, to inspect and to make necessary or agreed upon repairs. Your landlord must give you at least 24 hours notice, and can only enter at certain times. Your landlord must also have your permission to enter, but if you say no, you need to have a good reason. In cases of emergency, such as a fire, your landlord can enter at any time and is not required to provide notice. No written agreement can waive these rights.
- **Legal fees:** If your landlord takes you to court to enforce your agreement, you cannot be forced to pay your landlord's legal fees.
- **"Liens":** Your landlord cannot make you give a lien against your property for rent or other money you owe the landlord.
- **"Fair or reasonable clauses":** No rental agreement can force you to acknowledge that any rules or provisions in the agreement are "fair and reasonable."

**REMEMBER:** Only sign a lease or rental agreement you understand and agree to all the terms as they are written. If you have any questions about the terms in a rental agreement that you are considering signing, call the Legal Services for Maine Elders Helpline at 1-800-750-5353. A Helpline attorney might be able to help you, or may be able to connect you with a reduced-fee private attorney.

## Eviction

An eviction is a court action your landlord must use to remove you as a tenant. Before your landlord can start an eviction, the landlord must give you written notice to leave. This written notice to leave may be called a "Notice to Quit," a "Notice of Termination," or a "Notice to Vacate." The notice will say that you have to leave by a certain date and may give the reason for the eviction. If you receive such a notice, you should call an attorney as soon as possible.

The attorneys at Legal Services for Maine Elders might be able to help you, or provide you with a referral to an attorney who can. If you are 60 or older, call the Legal Services for Maine Elders Helpline at 1-800-750-5353 to talk to an attorney for free.

### Can I be evicted even if I have a lease?

Generally, the landlord cannot ask you to leave before the lease expires unless you have broken one of the terms of the lease, and the lease states that the violation is cause for eviction.

### What if I do not have a lease?

If you do not have a lease, you could be considered a tenant at will. If you are, the landlord does not need to have a reason to ask you to leave. The landlord just needs to give you a full 30 days to move. The 30-day notice must expire on or after the date through which your rent has been paid.

### Are there reasons that I could be evicted with less than 30-days notice?

Yes, if your landlord claims that: you have caused "substantial damage" to the apartment, you have been a "nuisance" to other tenants or neighbors, or you are seven days or more behind in your rent. In those instances, the notice will give you only seven days to move. If the notice claims that you are behind in your rent, the notice must state the amount of rent you owe and

that if you pay the rent within the seven days, you will not have to leave.

#### What if I live in subsidized housing?

If you live in subsidized housing, you should have signed a written Lease and you cannot be evicted unless the landlord can prove that you have broken one or more terms of the lease or for other “good cause.” If you are in subsidized housing, you may also be entitled to a “grievance hearing.” This hearing is your chance to give your side of the story and dispute the landlord’s reasons for wanting you to leave. You might be able to settle the dispute before the landlord files an eviction action in court.

An attorney can help you with your grievance hearing. If you are a Maine resident who is 60 or older, call the Legal Services for Maine Elders Helpline at 1-800-750-5353 to talk to an attorney for free.

**IMPORTANT NOTE:** An eviction from your subsidized housing can have a serious impact on your future eligibility for this program. If you are in danger of being evicted from subsidized housing, call the Legal Services for Maine Elders Helpline at 1-800-750-5353 to speak to an attorney for free.

#### What if I do not move out within the given time?

If you do not move out within the time given in the notice, the landlord **cannot** legally remove you or your possessions, shut off your utilities, or change the locks on your apartment without first going to court and getting a judgment against you.

To do this, the landlord must file eviction papers with the court and have a sheriff serve you with a copy of the Summons for Forcible Entry and Detainer and the Complaint. These papers ask the court to hold a hearing to decide if you can be evicted. The Summons will tell you the date, time and place of the hearing. The Complaint will state the landlord’s reasons for your eviction and will ask the court to award possession of the property to your landlord.

It is very important that you call an attorney right away if you have been served with a Summons and Complaint. Call the Legal Services for Maine Elders Helpline at 1-800-750-5353 to speak to an attorney for free.

#### What will happen at the hearing?

First, the judge will likely give you and your landlord a chance to talk. During this “negotiation,” you might be able to work out a deal that gives you more time to move. If you can’t come to an agreement the judge will hold a hearing that same day.

During the hearing, you and the landlord each tell your side of the story. You both may present witnesses and evidence. Then, the judge will decide if you can be evicted or not, based on the evidence presented.

If you do not appear at the hearing, a “default judgment” may be entered against you. The effect of a default judgment is basically the same as your landlord winning. If a default judgment is entered against you or the eviction goes in favor of your landlord, the landlord can go back to court seven days later and get a Writ of Possession from the Court. The landlord can then have the sheriff serve you with a copy of the Writ of Possession. If you are served with a Writ of Possession, you must move within 48 hours. If you do not move within 48 hours, the landlord can then ask the sheriff to remove you by force and charge you with criminal

trespassing.

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