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Background Brief on ...

# Landlord-Tenant Rights

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U.S. landlord-tenant law governs renting commercial and residential property. It is primarily composed of state statutory and English common law. State statutes and the courts normally govern landlord-tenant relationships. However, during national/regional emergencies and in preventing discrimination, federal law, the Civil Rights Act of 1968 and U.S. Code, Chapter 45, also known as the Federal Fair Housing Act, may be applicable.

The landlord-tenant relationship is founded on duties proscribed by statutory law, common law, or the individual lease. Provisions contained in a lease are normally regulated by statutory law. The primary basis to all leases is the implied covenant of quiet enjoyment. This covenant ensures that possessions will not be disturbed by someone with a superior legal title to the land, including the landlord. Unless the lease states otherwise, there is an assumption that the tenant has a duty to pay rent.

Oregon's Residential Landlord and Tenant Act (ORS 90.100 to 90.875) governs landlord and tenant laws and applies to renting a home, apartment, or room to sleep in, or for renting space for a mobile home or floating home. Exceptions include transient occupancy in a hotel or motel, living in a place as part of your employment in or around the rental building (such as a resident manager or janitor), living in a place you are buying, living on land rented primarily for the purpose of farming, and living in certain institutions.

Oregon law covers any real property for sale, rent, or lease. Federal law covers any real property, and federally-owned or financed housing.

## **Rights and Responsibilities of the Landlord**

The Oregon Residential Landlord and Tenant Act require that a rental unit be in good repair. This includes plumbing facilities, hot and cold running water, adequate heat, working electric lights, working electrical equipment, clean building and grounds, and all other areas and facilities properly repaired and working. Weatherproofing and weather protection is required in the roof, walls, windows, and doors. The rental unit must include a working smoke detector, with working batteries, at the beginning of tenancy, and working locks for all dwelling entrance doors. It is the tenant's responsibility to test the smoke detector every six months and to replace batteries as needed.

The landlord must provide heat, water, and electricity, although the tenant is usually asked to pay the utility bill. The landlord is required to provide trash cans and arrange for removal, but the tenant may be asked to pay for the service.

#### *Security Deposits*

The landlord has 30 days after termination of the rental agreement to refund all deposits due. If the landlord needs to keep any portion of the deposit to cover damages, breakage, unpaid rent, etc., a statement must be forwarded to the tenant within 30 days showing the use of that money. Deposit money may not be claimed by the landlord to cover ordinary wear and tear by the tenant.

#### *Screening Fees*

A landlord can charge an applicant a screening fee to cover the cost of obtaining applicant information as the landlord processes the application for the rental agreement. The applicant screening fee may not be greater than the landlord's actual costs or than the customary amount charged by tenant screening services or consumer reporting agencies for a comparable level of screening. The landlord must provide receipts for the applicant screening fee, as well as notify the potential tenant in advance and in writing that there will be such a fee.

#### *Additional Fees*

A landlord has the right to charge a late fee as stipulated in the rental agreement. The agreement must describe how the late charge is calculated, the date on which the rent payment is due, and the date on which a late fee becomes due. The landlord must wait at least four days after rent is due to charge a late fee. While nonpayment of a late charge alone is not grounds for eviction for nonpayment of rent, nonpayment of a late charge may be grounds for a 30-day for-cause eviction. Interest charges on unpaid late fees can also be imposed.

The landlord can also add a small, additional monthly charge for some limited services such as utilities or television cable service as stated in a signed rental agreement.

#### *Rent Increases*

A lease usually establishes the rent for the lease specified period. However, the landlord can raise the rent to any level if the lease provides for such an increase. In a month-to-month lease, the landlord can raise the rent after providing 30 days notice. For a mobile home space or floating homes, the landlord must give each tenant a minimum of 90 days written notice.

#### *Change of Landlords*

A new landlord cannot substantially change the rules without the tenant's consent. However, if a tenant is renting on a month-to-month basis, the landlord can give a 30-day notice to the tenant to vacate the dwelling. The tenant would then need to contact the new landlord and attempt to negotiate a new rental agreement.

#### *Landlord Rights to Enter Unit*

The landlord or real estate representative must notify the tenant 24 hours in advance before entering the property. There are certain exceptions for the landlord only, such as when a tenant has requested repairs, when there is an emergency, when it is "impracticable to contact the tenant," or if there is a written agreement to the contrary.

#### *Notice for Eviction*

A landlord can give a tenant a 30 day notice to vacate and not state a reason for eviction. If a tenant is 5 days late in paying rent, the landlord is allowed to issue a 144-hour notice to pay or vacate. If a tenant is 7 days late in paying rent, the landlord is allowed to issue a 72-hour notice to pay or vacate. If the rent is paid within 72 hours, the tenant does not need to vacate.

A landlord can give a tenant a 24-hour notice to vacate if the tenant has committed an "outrageous in the extreme" act. This may include threatening other tenants, intentionally damaging property, or injuring someone. An act can be proven to be extremely outrageous even if it does not violate a criminal statute; however, no matter what the tenant has done to the rental unit or to the landlord, the tenant cannot be locked out of the unit nor have essential services stopped by the landlord.

Landlords can also evict perpetrators of physical violence related to domestic violence, sexual assault, or stalking against a household member who is a tenant, but cannot terminate the agreement of the other tenants in such cases. However, they cannot terminate a rental agreement or treat a tenant differently because they are a victim of domestic violence, sexual assault or stalking.

In the case of an eviction due to a rental unit being converted to a condominium, landlords are prohibited from evicting tenants without a stated cause or from imposing unscheduled rent increases over cost-of-living increases during the 120-day notice of conversion period.

### **Rights and Responsibilities of the Tenant**

Although the landlord maintains legal title to the property, the tenant has use of the property and it is considered the tenant's home with regard to the right of privacy. As noted earlier, the landlord has the right to inspect the property. However, at least 24 hours notice must be given before entering the property, except in cases of emergency, agreement to the contrary, or unless it is impracticable to do so. The rental property must be safe and sanitary and be maintained throughout the rental period. If repairs are necessary for safety or sanitation, the landlord must make such repairs without cost to the tenant. The condition for repair cannot be from tenant neglect or a deliberate act.

Duties of the tenant include: to use the property only as a dwelling; to pay the rent; to keep the property reasonably clean and maintained; and, at the end of the rental term, to return the property to the landlord in the same condition in which the tenant received it, except for reasonable wear and tear.

#### *Repairs*

Tenants have the right to repair some minor habitability defects of up to \$300 and seek reimbursement if the landlord doesn't make the repair within seven days of receiving a written request from the tenant. The landlord can

designate who can make the repair if it is reasonable and does not diminish the tenant's rights. Repairs for mold, radon, asbestos, or lead-based paint must be made through the landlord.

#### *Right of Entry*

The tenant renting a house or an apartment from someone enters into a legal contract/relationship with that person(s) and possesses certain rights and duties. The tenant has the right of peaceful possession and the right to a "habitable" home.

#### *Condominium Conversion*

If a rental unit is being converted to a condominium, tenants are required to receive a 120-day notice of eviction that must include the offer to sell to the tenant and resources for providing financial assistance in buying the unit.

During the 120-day period, construction work can only take place between 8:00 a.m. to 7:00 p.m. and tenants are required to be allowed access to their dwelling.

### **Resources**

A compilation of Oregon statutes related to landlord and tenant rights is available from the [Office of Legislative Counsel](#). The publication includes select laws relating to the Residential Landlord and Tenant Act, hotels and motels, temporary and transitional housing, and farm labor housing.

The [Oregon State Bar](#) provides general legal information regarding landlord and tenant law.

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