



A message from...

Assemblymember

John T.
McDonald III

Dear Friend,

State laws governing housing are complex, and tenants are often not aware of their rights.

I have prepared this brochure to answer some of the fundamental questions concerning your rights as a tenant.

There are also certain housing accommodations in parts of the state covered by special laws governing rent and services. These laws provide additional rights to tenants. You can contact my office to determine if any of these laws apply to you.

If you would like additional copies of this brochure, or if you need more information on this or any other matter, please let me know.

Sincerely,

John T. McDonald III
Member of Assembly

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Tenants' Rights



Information on...

- leases
- security deposits
- evictions
- subleases
- responsibilities of landlords and tenants in New York State

Discrimination: It is unlawful to deny a person housing based on his or her race, creed, color, national origin, sex, age, disability or marital status.

Leases

A lease is a written or spoken agreement – a legal contract stating the terms governing the rental of an apartment or house.

After it is signed, a written lease may not be changed without consent of both parties. Any changes in your lease should be in writing and signed by your landlord.

A spoken agreement lease for up to one year can be enforced.

There is often no lease in a month-to-month tenancy, which may be ended by the landlord or the tenant. However, notice must be given at least one month before your next rent payment is due.

Public housing authorities have their own regulations and/or specific lease terms. For your protection, read and understand your lease before signing it. Your lease should always include:

- The identities of the parties to the agreement.
- The term of the lease.
- A clear description of the rental space, including appliances and other furnishings.
- Who is liable for utility expenses.
- The amount of rent.
- The date rent is due.
- Penalties for late rent payments, if any.
- The landlord's responsibilities.
- The tenant's responsibilities.
- Provisions regarding painting.

Before you sign a lease

Examine the windows, wiring, insulation, plumbing, walls, floors, stairways, stove, refrigerator, toilet, sinks and heating system. These items should be in good working condition. If they aren't, try to resolve the matter before signing the lease.

If you already moved in, write to your landlord requesting repairs within a reasonable amount of time. Remember, read the lease carefully and know your legal responsibilities under the lease.

Early lease termination

If you wish to terminate your lease before the allowed time, you must negotiate with your landlord. The landlord may agree to re-rent the dwelling, or you may, in some instances, sublet or assign the apartment.

Senior citizens moving to health care facilities are covered by special protections in the law for early lease termination.

Heat

Between Oct. 1 and May 31, the landlord must provide heating equipment that can maintain the following room temperatures in a building with three or more units:

- 68° F between 6 a.m. and 10 p.m. when the temperature outside is below 55° F.
- In New York City and Buffalo, the following additional requirement must be met:
- 55° F between 10 p.m. and 6 a.m. when the temperature outside is below 40° F.

Contact my office to find out if any of these special laws apply to your apartment.

Tenants' Rights & Protections in New York State

Housing code violations

Any problems endangering your health and safety should be reported to the landlord. If the landlord is not available or will not correct the problem, tenants should call their local health or building department; New York City tenants can contact the Department of Housing Preservation and Development or dial 311 or 212-New York.

Subleases

You are allowed to sublease your apartment with the written consent of the landlord. As the original tenant of a subleased apartment, you remain liable for damages and/or defaults in rent. The steps in subletting are:

- Inform your landlord of your intent to sublease by certified or registered mail, including information required by law about the co-tenant.
- Your landlord has 10 days to request more information.
- Within 30 days after this request and additional information is mailed, or if more information was not requested within 30 days of the initial notification, your landlord must approve or deny the request.
- If your landlord fails to notify you, this can be considered an approval.
- Upon approval, you may sublease the apartment.
- In New York City, subleasing an apartment in a class A dwelling, which is a building occupied by permanent residents, for fewer than 30 days is prohibited, effective May 1, 2011.

The landlord cannot unreasonably withhold consent. If you believe you've been unreasonably denied the right to sublet, you can, at your own risk, proceed to sublet. If your landlord takes legal action, but you can prove the landlord acted in bad faith, your legal fees must be reimbursed by the landlord.

Security deposits

A security deposit is a sum of money held by the landlord to cover violations of the lease – e.g., damages – caused by a tenant. As a tenant, you should request a receipt for your security deposit. In buildings with six or more housing units, the landlord must:

- Deposit your money in an interest-bearing account.
- Give you the name and address of the bank in writing.
- Hold the interest in trust or pay it to you annually. The landlord may retain 1 percent of the interest generated from the security deposit for administrative expenses.

In buildings with fewer than six housing units, the landlord is not required to deposit the money in an interest-bearing account. If the landlord decides to deposit the money in a bank, you're entitled to proper notification and interest, if any, less 1 percent for administrative expenses.

When you move, you should receive a refund of the security deposit. You're responsible for any damages beyond normal wear and tear, and your landlord may withhold all or part of the security deposit to cover damage or unpaid rent. The landlord can be prosecuted for wrongfully withholding all or part of your security deposit.

Evictions

Eviction is the legal removal of a person from someone else's property. The steps in an eviction are:

1. Tenant defaults in rent payments and/or breaks the terms of the lease or the lease expires.
2. Landlord serves a petition, which is the start of a case. In some cases, the landlord must serve a notice prior to starting a court action.

3. Tenant appears in court to contest the eviction and to raise any counterclaims against the landlord; tenants who don't contest the eviction in court lose the case.
4. If the landlord wins, the court issues a warrant, to be served by the marshal or sheriff, requesting the tenant's eviction; the court may issue a monetary judgment against the tenant; if the landlord can't prove his or her case, the action is dismissed; if the tenant wins a counterclaim, the court issues a judgment against the landlord.
5. If the case involves nonpayment of rent, the tenant can usually end the action by paying rent before the warrant is issued.
6. The warrant will be served, giving the tenant 72 hours to vacate.
7. After 72 hours, the marshal or sheriff can remove the tenant's belongings from the premises and lock the tenant out.

Landlord retaliation barred

Every lease is a guarantee by a landlord that the premises are fit for human habitation and tenants will not be in danger – a warranty of habitability. Breach of this guarantee can be grounds for a tenant to sue the landlord or, if the landlord started a court action, have the landlord's action dismissed.

However, tenants are often reluctant to report violations of housing codes or seek enforcement of their legal rights for fear they may be evicted by their landlords. By law, landlords are prohibited from threatening eviction when tenants complain of violations.

For example, in residential rental premises, except owner-occupied dwellings with less than four units, tenants are guaranteed protection against landlord retaliation and cannot be evicted if:

- A tenant has filed a good faith complaint of an unsafe, unhealthy or uninhabitable dwelling.

- A tenant has taken action in good faith to secure his or her rights as a tenant.
- A tenant participates in a tenant organization.

Responsibilities*

Landlord

Under state law, landlords are prohibited from allowing any condition that may endanger a tenant's life, health or safety – a warranty of habitability.

- The dwelling must be clean before the tenant moves in.
- Public halls and stairways must be lighted adequately.
- During the winter season, heat must be kept on at all times, except during repairs, alterations and temporary emergencies.
- Radiators, plumbing, wiring, hot water heaters and furnaces must be maintained.
- Apartment and surrounding areas must be kept free from insects, rodents and trash.

Tenant

- Pay the rent on time.
- Apartment and yard must be kept clean.
- The landlord must be kept informed of any problems with facilities.
- Any damages to the premises, besides normal wear and tear, must be repaired.

*Unless otherwise stated in the lease