



## **Tenant Rights**

When you rent housing, there are many laws that affect your relationship as a tenant with the landlord. This pamphlet is about some of those laws.

### **RENTAL AGREEMENTS**

#### **Leases**

Although a rental agreement can be written or oral, “lease” usually means a written rental agreement for a specific time, usually one year.

For a tenant, the main advantage of a written lease is that your rent cannot be raised and you cannot be evicted during that year, as long as you abide by the lease. The main disadvantage is that you may have to pay the rent for extra months if you move before the lease ends.

Read the lease carefully before you sign, and ask about anything you do not understand. If rent is shared, anyone who signs the lease may have to pay the total rent, not just his or her portion. If your lease expires and you are not offered a new one, you become a month-to-month tenant.

#### **Month-to-month tenant**

If you do not have a lease, the landlord can increase the rent, but must give written notice of the increase (or any other significant change), 30 days in advance. Likewise, you can leave without continuing to owe rent as long as you give the landlord 30 days notice.

In most situations a month-to-month tenant cannot be evicted without good cause. Please read our pamphlet *The Eviction Process* for a list of the reasons that you can be evicted.

### **SECURITY DEPOSITS**

Your landlord may require you to pay a security deposit. The amount of the security deposit cannot be more than what you pay for one month’s rent. Your landlord must return your deposit within 30 days after you leave.

Please see our pamphlet *Security Deposits* for more information about the laws affecting your security deposit.

**BE SURE TO GET RECEIPTS FOR ALL PAYMENTS YOU MAKE, ESPECIALLY IF YOU PAY IN CASH**

## **HOUSING STANDARDS**

New Hampshire law requires landlords to provide safe, sanitary housing for tenants. A state law (RSA 48-A:14) spells out minimum standards for rental property. (Your local community, particularly a city or larger town, may have its own housing code, which can require your landlord to do more. Ask at your town or city hall if your town has a housing code.)

### **You have the right to a home that has:**

- No infestation of bugs, mice, or rats.
- Internal plumbing that works without a back-up of sewage caused by a faulty septic or sewage system.
- Safe wiring without exposed wires, the wrong connectors, bad switches or outlets, or other conditions that create a danger of electrical shock or fire.
- Roofs and walls that do not leak.
- Plaster that is not falling from the walls or ceilings.
- Floors, walls, or ceilings with no large holes.
- Porches, stairs, and railings which are structurally sound.
- No garbage or rubbish in common areas due to the landlord's failure to remove it or to provide enough containers for storage before the trash is to be taken away. This is a code violation unless you have accepted responsibility for trash removal under the lease.
- Enough water, and a water heater that works properly.
- No leaks in the gas lines, or leaks, or defective pilot lights in any appliance furnished by the landlord.
- Heating facilities that are properly installed, safely maintained, and in good working condition, and that can safely and adequately heat all livable rooms and bathrooms to an average temperature of at least **65°**. Or if heat is included in the rent, the premises must be kept at a minimum average temperature of **65°** in all livable rooms.

**NOTE:** Section 602.2 of the City of Concord Housing Maintenance and Occupancy Code requires that dwellings shall be provided with heating facilities capable of maintaining a room temperature of **68° F.** in all habitable rooms, bathrooms and toilet rooms.

## **LEAD PAINT**

You have a right to live in housing that is free from lead paint hazards. To find out if your apartment is safe, contact your town Code Enforcement Officer. To find out more about the hazards of lead paint, call the Childhood Lead Poisoning Prevention Program at 603-271-4507.

## **REQUESTS FOR REPAIRS**

Make all requests for repairs in writing (be sure to date it), make a copy for yourself, and give it to the landlord. If the landlord fails to make the proper repairs, report any serious problems to the town. The town or city clerk can direct you to the proper officials, usually the Code Enforcement Officer, Health Officer, or Building Inspector. Report fire hazards to the local Fire Chief.

If these problems are ignored by the town, contact the State Office of Community and Public Health (603-271-4781) or the State Fire Marshall (603-271-3294). Landlords may not evict you for making complaints.

## **Withholding rent**

If the violations (problems with your apartment) are serious, you may want to consider rent withholding in order to get your landlord to correct code violations.

**ALWAYS PUT THE RENT MONEY ASIDE AND KEEP IT IN A SAFE PLACE BECAUSE IT IS LIKELY THAT SOME OR ALL OF IT WILL HAVE TO BE PAID TO THE LANDLORD ONCE THE REPAIRS ARE MADE.**

You can lawfully withhold your rent if ***all*** of the following conditions are met:

1. You gave your landlord written notice of the violations while you were not behind in rent. (Written notice is not an absolute requirement, but is always a good idea); AND
2. The landlord failed to take corrective action within 14 days of your written complaint. In an emergency, you may not have to wait 14 days before you begin withholding. Consult an attorney before you withhold rent in less than 14 days; AND
3. Your family or guests did not cause the violation; AND
4. Extreme weather conditions did not prevent the repairs; AND

5. You did not refuse to let the landlord into your apartment to make the repairs.

If your landlord tries to evict you for non-payment and you can prove you withheld your rent under the above conditions, the Court can postpone the hearing to give the landlord time to make repairs, and eventually dismiss the eviction.

### **TENANT PROTECTIONS**

**It is against the law (RSA 540-A) for a landlord to:**

1. Shut off your utilities;
2. Lock you out of your rented premises without a court order;
3. Enter your residence without permission, except to make emergency repairs.(You should not refuse your landlord's reasonable request to enter with enough notice);
4. Take any other action to force you out of your home without going through the eviction process.

If your landlord has done any of the things listed above, you can get an order to make your landlord stop, and to award you damages, by filing a 540-A petition at your local district court. You do not need a lawyer nor to pay a fee to file the Petition; simply ask the clerk to help you. You can ask for a Temporary Order if there is an immediate threat of serious harm. The Court will schedule a hearing to hear from both sides, and will then decide if you should get damages and if the order should be continued. Contact LARC for more information on filing a petition.

### **Eviction rights**

In most cases your landlord has to have good cause to evict you. Please read our pamphlet *The Eviction Process* for a description of the reasons you can be evicted.

### **Retaliatory evictions**

**You cannot be evicted in retaliation for exercising any of the following legal rights:**

1. Reporting a serious code violation to a landlord or public official;
2. Lawfully withholding rent;
3. Meeting with or organizing other tenants.

Your landlord cannot evict you if you can prove the reason for the eviction was that you exercised one of these legal rights. If an eviction is begun within six months after one of these actions, it will be considered retaliatory unless your landlord can show some other good reason for the eviction. For example, if you owe more than one week's rent at the time of the eviction. Keep copies of everything that you give to your landlord or to officials.

**LANDLORDS CANNOT REFUSE TO RENT TO ANYONE BECAUSE OF RACE, CREED, AGE, SEX, COLOR, NATIONAL ORIGIN, MARITAL STATUS, PHYSICAL OR MENTAL HANDICAP, OR TO FAMILIES WITH CHILDREN. FOR MORE INFORMATION, CONTACT THE FAIR HOUSING PROJECT AT NH LEGAL ASSISTANCE (1-800-921-1115) OR THE NH HUMAN RIGHTS COMMISSION (603-271-2767).**

Legal Advice & Referral Center  
15 Green Street  
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1-800-639-5290 or 603-224-3333