

RENTING/LEASING A HOUSE OR APARTMENT

1. INTRODUCTION

Many people have problems with their landlord after they have rented or leased a house or an apartment. A careful reading and a clear understanding of the agreement before signing it can help you avoid several of these difficulties. Leasing contracts are often hard to comprehend because of their complex language. Therefore, it is very important that you read any agreement closely. Make sure you and the landlord have the same understanding of any questionable language before you sign the lease.

Consider the final checklist on the last page of this pamphlet. This may save you time and money. Be aware, however, that some guidelines set out in this publication apply only to "professional" landlords who rent more than eleven units and/or employ a third-party manager.

If you still have questions, please take advantage of the legal assistance program at the Robins Air Force Base legal office. The attorneys there can explain any lease terms and advise you of possible unfavorable provisions. Please call 926-9276 for assistance.

2. BEFORE MOVING IN

Some managers require a non-refundable application fee. This means that if you apply and then decide not to move into that particular complex you will not get that application fee back. In addition, most landlords expect a security deposit before they let you occupy your new residence. This amount may range from about \$150 to one month's rent or more. The deposit is designed to cover any back rent owed upon moving out as well as any damages to the dwelling unit.

Therefore, before paying the deposit you should conduct a thorough move-in inspection of your new residence with your landlord or the representing agent. Note every problem you observe in writing and get a copy of the inspection signed by both you and the landlord. Consider that you are expected to return the house or apartment in the same condition as you found it - (this inspection is used as a guideline for possible damage upon move-out) - except for normal wear and tear. If existing problems have not been recorded in this document, you may be held responsible for damages you did not cause.

If you do not agree with your prospective landlord about the problems present, you should put your disagreement in writing and submit this signed statement to your manager. For example: according to the Georgia law a landlord cannot include a provision in the lease that you are accepting the residence "as is." An implied promise contained in the Code guarantees that the rented premises are in good condition.

The landlord or his agent cannot use your security deposit in their daily business dealings. It has to be placed in a special account or security bond. They must inform you in writing of the deposit location and the account number. Most landlords fail to comply with these legal requirements and you should insist on this information. (If nothing else, it will make your landlord aware of your knowledge of your rights and might prevent any attempt to take advantage of you.)

Under normal circumstances, your written lease specifies the beginning date, the length of the lease and its termination date. However, if you did not enter a written agreement containing these conditions, your tenancy may be terminated by the landlord with a 60-day notice or by you informing the landlord of your intent to move out 30 days before you vacate the premises. The law requires a written rental or lease contract when the lease period extends over one year.

The Georgia Legislature has taken into account that military personnel are subject to sudden change in assignments by specifically providing that long-term leases may be canceled when military personnel receive orders for permanent change of duty or TDY for more than three months. To avoid trouble in the future, discuss the law with your prospective landlord who might not be aware of it. According to the law, you cannot be held liable for more than thirty days rent after your written notification to the landlord that you have received TDY or PCS orders. This provision covers only TDY or PCS and does not extend to any relocation into base housing. Under those circumstances the landlord can hold you liable for the unexpired time of your lease during which he cannot rent the premises. You should discuss the addition of a clause that may release you from this obligation if you are on the base housing list.

3. WHILE LIVING ON THE PREMISES

After you have moved into your new home, both you and your landlord have certain responsibilities that you have to consider.

a. Landlord's Responsibilities

Your landlord is liable for any improvements to the property made by you, provided you had the landlord's consent. Also the law requires your landlord to repair any damage to your apartment that is beyond normal wear and tear. This includes structural problems as well as any trouble with appliances essential to the occupancy of the residence. It does not apply to damages caused by you or through your occupancy. Therefore, take good care of the premises and instruct your household members and guests to do the same. You should inform your manager immediately of any problems and insist on prompt repair. If you allow the conditions to linger, the landlord may not be liable. Be insistent; this is your legal right.

In the rare instances where the landlord's failure to repair causes the dwelling unit to become uninhabitable, you can be constructively evicted. This means that you are no longer contractually bound by your lease or rent agreement until the landlord restores your home. Be sure to check with the legal office to establish your rights and responsibilities in a constructive eviction.

b. Tenant's Responsibilities

As a tenant you have certain responsibilities. These include (but are not limited to) your duty to pay your rent on time, to prevent disorderly conduct by anyone on your premises, to obey the rules and regulations you signed in your lease, and to disallow criminal conduct.

Your most important obligation to your landlord is timely rent payment. Landlords rely on their projected income to meet their responsibilities. If you make a late payment or don't pay at all a serious problem is created. The courts have given landlords certain remedies to assure the coverage of any potential losses. For example, your landlord can withhold any unpaid rent from your security deposit. The landlord may also seize the tenant's property after applying for a distress warrant after the rent is due in case the tenant attempts to remove his or her belongings from the dwelling. For example, if your apartment stays empty for four months, you are required to pay the landlord the rent for those four months or you may lose personal property to cover the outstanding debt.

You are bound by the rules and regulations you signed in your lease or rental agreement. Continuous violation of these rules, as well as disorderly conduct, may result in an eviction. You are also responsible for the actions of your household members and your guests. Any criminal conduct on the premises is sure grounds for eviction. For example, any drug use or sale in your residence can result in legal actions that cause you to lose your home.

Do not forget, an eviction does not relieve you of your obligation to pay rent until the unit can be leased to a third party. Therefore, be aware of your responsibilities and do not give your landlord reason to take actions against you.

4. AFTER MOVING OUT

You have to return the premises to the landlord in essentially the same shape that you received it (remember the all-important move-in inspection!!). The landlord should expect and consider normal wear and tear. He has to conduct his inspection within three business days after you terminated the lease and must give you a written listing of such inspection. Both parties have to sign this document. If there are no damages and no back rent due, the landlord has to return your security deposit within one month.

A dispute as to damages entitles you to inspect the premises within five days after termination to establish the validity of the move-out inspection. Any discrepancy between you and the landlord must be in writing and signed. It may be a good idea to take pictures of any contested problems that could substantiate your claim. The landlord is entitled to deduct from the deposit any amount necessary to return the dwelling unit to its original condition. He also may subtract any unpaid rent. He has to supply you with a written statement specifically justifying the exact dollar amount withheld.

If the landlord does not deposit your security deposit in an escrow account or does not post a surety bond and fails to give a detailed initial and final inspection list, he may not keep any portion of the deposit. The money is also forfeited when the landlord does not supply you with the written inspection reports within the specified time periods. You are entitled to triple damages as well as reasonable attorney's fees when a landlord improperly withholds your security deposit unless your landlord owns less than eleven rental units and/or does not employ a third party for management purposes.

5. FINAL CHECKLIST

Before signing your lease and moving in, read every paragraph in your lease agreement carefully and make sure you understand it. If you have any questions, please consult a lawyer at the base legal office.

Request a written inspection of the premises; if you disagree, provide a detailed list in writing.

Ensure that your landlord gives you a written statement of where your security deposit is deposited (account number and bank or surety bond).

Treat your new home as if it were your own. You are responsible for any damages beyond normal wear and tear.

Live up to your legal responsibilities including rent payment and appropriate conduct.

Upon move-out, get a detailed, written move-out inspection within three business days. If you disagree, put it in writing.

A landlord has one month to return your security deposit. If your landlord holds your deposit illegally, you may be entitled to triple damages plus attorney fees.