

MOVING IN - MOVING OUT

Renting

The Lease

A lease is a contract between you and the landlord, which contains the conditions of renting. (For more information about contracts, see the section “As a Consumer”). If you have a written lease, make sure that you read the lease carefully and understand all of the terms of the lease. Further, you should ensure that any additional promises or conditions are added in writing. Before signing the lease, be sure that you know who will pay for utilities (gas, water, and electricity), trash removal, and other such services. The lease should specify when the lease period begins, when it expires, whether a security deposit is required, the amount of the security deposit, the conditions that must be met to have the security deposit returned, and the amount of notice required before vacating the premises. If the lease is a preprinted form, do not sign it until all the blanks have been filled in. If a blank does not pertain to your lease, it should have “not applicable” or “N/A” written in the space. When you sign the lease, always record the date next to your signature. You should receive an original copy of the lease, signed by you and the landlord, and you should keep the lease in a safe place.

If you do not have a lease, the landlord can give you 30 days notice of a rent increase. With a written lease, the landlord, in most cases, cannot raise the rent until the lease term expires. Some written leases contain a provision that allows the landlord to raise the rent during the lease term, if you are given appropriate notice. Make sure you understand, and agree with, the lease terms addressing rent increases.

Leases, more than one year in length, must be in writing. Leases up to and including one year in length can be verbal. For some obvious reasons, a written lease is the better option, as it documents the terms of the agreement that you have reached with the landlord, and it is easier to enforce. With a written lease, you should have a better understanding of your rights and responsibilities, and will have something tangible to reference if a dispute arises.

Having said that, you also must recognize that in most cases, the landlord will provide the written lease as a preprinted form, and likely, it will be slanted in their favor. Be wary of clauses that automatically renew an expired lease for another term unless written notification is provided to the landlord within some period. Little can be done, legally, if you have agreed to such a clause, then miss the deadline for providing a notice to vacate. Also, beware of clauses that allow the landlord to increase the rent during the term of the lease. This may defeat your purpose in obtaining a lease, and generally provides the landlord with too much control. Again, before signing the lease, make sure that you have read the entire lease and understand all the conditions and provisions. If you have any questions, contact an attorney to review the lease *before* it is signed. An ounce of prevention is worth a pound of cure.

Security Deposits

Any money that you give the landlord, other than your monthly rental payment, is considered a security deposit. For example, if the landlord asks for the first and last month's rent in advance, the last month is considered your security deposit. The New Hampshire law on security deposit, applies to all residential tenants unless you rent a single family home from your landlord who does not own any other rental property, or if you live in a building with less than six apartments, and your landlord lives in the same building.

If the landlord holds your security deposit for more than one year, he or she must pay you the amount of interest earned on the money in the account where it was deposited. The landlord must, upon request, provide you the name of the financial institution where your security deposit is kept. Even if the security deposit law does not apply to you, other rights, such as suing the landlord if your security deposit is not returned when you move out, still apply.

A landlord cannot require you to pay a greater security deposit than one month's rent or \$100.00, whichever is greater. When you give the landlord your security deposit, you are entitled to a receipt identifying the bank or institution where the money is deposited. You also should be notified that you have five days to give your landlord a list of defects and damages that existed when you moved into the apartment or house.

Finding Safe and Sanitary Housing

If you want to rent an apartment in a house, be sure that you inspect the property and note its condition before you rent it. If you want the landlord to make any changes before you move in, this should be identified **explicitly** in the lease agreement. You are required to return the apartment or house in the same condition as when you moved in, except for normal wear and tear of everyday living. Therefore, it is recommended that you take photographs or video before you move in to document the condition of the premises. The pictures or videotape could be very helpful when you move out and want your security deposit returned.

Along the same lines, when you move into an apartment or house, be sure to make a list of all defects and damages found, as these may not always be visible in a photograph or video. This list should include the general condition of the premises as well as specific damages and operating condition of any appliances, such as the dishwasher, washing machine, garbage disposal, water heater, furnace, and air conditioner. You also should include the condition of the walls, ceilings, floor coverings, etc. The best time to make this list is before you actually move your household effects into the apartment or house. With it empty, you will be able to view the premises without having to move furniture, pictures, and the like. You should sign and date this list, and provide a copy to your landlord within a day or two of moving in. For reference, a copy of the list should be retained with your copy of the lease in a safe place.

Under New Hampshire law, landlords must provide safe and sanitary housing. This means that the apartment or house must not be infested with bugs, mice or rats unless the landlord during a current inspection has just discovered them and an extermination program is in progress. The premises must not have any serious plumbing problems, and there can be no exposed wiring, improper connectors, or defective switches or outlets. The walls and roof should not leak. The porches, stairs, and railings must be safe and the floor, ceilings and walls must not have large holes or falling plaster that makes them dangerous. There should be an adequate water supply and functional water heater. There should be no leaks in any gas or sewer lines. All heating equipment should be properly installed and in good working order. All living areas should be able to be heated to at least 65 degrees Fahrenheit. If heat is included in the rent, then the premise should be kept at a minimum of 65 degrees Fahrenheit.

Lead paint is a common problem, especially with older homes and apartments. Lead paint becomes a significant concern if young children will be living in the premises. If the building you are renting was built before 1978, your landlord may be required to provide a "lead paint disclosure," stating his knowledge of the presence of lead paint in the property. Before entering any lease for an older property, you should inquire about the landlord's knowledge of the existence of lead paint, and ask if any tests have been performed to certify that the apartment is lead free.

The city or town in which you rent, might have a local housing code that applies to your rental. It will probably contain more detailed requirements, which should provide even greater protection. Check with your town or city hall, or the New Hampshire Legal Assistance office nearest you if you have any concerns.

Living in a Rental Unit

If you have complaints while you are living in an apartment or house, make them in writing to your landlord, keeping a copy for your records. If the problem continues, consult an attorney, New Hampshire Legal Assistance, or the Lawyer Referral Service of the New Hampshire Bar Association. Although a tenant may withhold rent if the landlord does not maintain the apartment or house as required by law, an attorney should be consulted before taking this step. Failure to pay rent can be grounds for eviction, and if you withhold rent payments when it is not appropriate, you may find yourself without a residence.

Moving Out

When you move out of an apartment, you must give the landlord appropriate notice of at least thirty (30) days, unless otherwise specified in your lease agreement. Make sure that when you move out, you clean the premises and remove trash so that the landlord cannot claim damages for cleaning. In addition, make a list of the conditions when you leave and have a friend go through the apartment just before you move out in case you need a witness in court. This also may be a good time to take more photographs or videos, so that you will have documentation of the condition of the apartment when you moved

out. Obviously, this should be done after your household effects have been moved out. Otherwise, the landlord may be able to claim that you caused damage to the premises after you took the photographs or videos.

An important consideration is the future reference from your existing landlord. More likely than not, you will need a good reference from your existing landlord when you rent another apartment or house, or for other credit purposes. How you end your tenancy will affect the reference given by your landlord.

When you move out, if you have complied with the terms of the lease agreement and given proper notice, the landlord has thirty (30) days to return your full security deposit, with any interest owed, or to return your deposit minus the amount deducted for damages or unpaid rent. If money is deducted for damages, the landlord also must give you an itemized list of the damages, with copies of invoices or bills for the repairs. You are required to give your landlord your forwarding address, so that he or she can send you the security deposit.

If, within thirty (30) days of vacating the premises, your landlord does not return your security deposit, or receipts showing that repairs equaled or exceeded your security deposit, you can sue the landlord in Small Claims Court for twice the amount of the security deposit owed to you. Any deposits plus interest due on the deposit that remain unclaimed after 6 months from the termination of the tenancy shall become the property of the landlord, free and clear of any claim of the tenant, absent fraud. The landlord will have a great defense if you have not provided your forwarding address in a timely manner. The other side is that the landlord can sue you for damages if they exceed the value of your security deposit.

Eviction

The law requires a special process, which the landlord must follow, to evict a tenant. A landlord can evict you for justifiable cause including: non-payment of rent; substantial damage to the premises; violation of the lease agreement; behavior or actions that threaten the health or safety of other tenants or the landlord; or other good cause. "Other good cause" can be a legitimate business reason and does not need to be something that you did or did not do. The step-by-step eviction process includes written notice to you and the opportunity for a Court hearing. If you are being evicted for non-payment of your rent, your landlord must allow you at least seven (7) days after serving with a written demand, to make payment of the amount owed. Payment of that amount within the seven days will prevent your landlord from completing the eviction process. If you pay after the seven-day period, the landlord will still be able to evict you for non-payment of rent.

The eviction process requires your landlord to go to Court and obtain a "Writ of Possession" in order to evict you. Then, and only then, the Court can direct the sheriff to remove you from or lock you out of your apartment or house. It is illegal for your landlord to try to evict you by breaking into your home, moving your belongings, locking you out of your home, or turning off your utilities. If you need help with an eviction, contact an

attorney, the New Hampshire Legal Assistance or the Lawyer Referral Service of the New Hampshire Bar Association.

Mobile Home Parks – Your Rights as a Tenant

Moving Into a Park

A park owner cannot charge a tenant an “entrance fee” just for moving into a mobile home park. A new tenant, however, may have to pay for services such as water, sewer, and electricity to be connected. These fees cannot exceed the equivalent of three month’s rent, and they must be charged for services actually rendered. In addition, a park owner cannot charge more than one month’s rent for a security or damage deposit. In most cases, the park owner cannot make tenants buy their mobile homes from the park owner. The two exceptions to this rule are if the park is new or the owner has added a new space, in which the park owner can require a tenant moving into the park to buy his or her mobile home from the park owner. The park owner also cannot require any tenant to purchase any goods or services from any particular person or company.

Park Rules and Conditions

All park rules, regulations and conditions of renting must be in writing and must be given to each tenant. A specific summary of your rights, printed in large type, must be posted at the beginning of any list of park rules. Park rules must be reasonable in order to be legal and enforceable.

Eviction

The law requires a special process, which park owners must follow, to evict a tenant. Written notice must be given to the tenant, with an opportunity for a Court hearing. For an eviction to be legal, it must be ordered by the court. If you need help with an eviction, contact an attorney, the New Hampshire Legal Assistance or the Lawyer Referral Service of the New Hampshire Bar Association.

Selling Your Mobile Home and Sale of the Park

If you live in a park, you are free to sell your mobile home, in place, at a price of your choosing. The park owner cannot require either you, or the buyer, to move the home out of the park, solely because of the sale. You must, however, notify the park owner of your plan to sell. Although the park owner cannot unreasonably withhold approval for a sale, the park owner can withhold approval for legitimate reasons. For example, if the buyers have a history of not making rent payments, the park owner could have a legitimate concern and refuse to accept them as tenants. If approved for the sale, the new tenants must comply with the existing park rules. Failure to do so may constitute grounds for an eviction.

If your landlord decides to sell the park, state law helps the tenants protect themselves from displacement by giving them a chance to buy the park.

For more information, see “Your Rights as a Tenant in a Manufactures Housing/Mobile Home Park” by the New Hampshire Legal Assistance.