

LANDLORD AND TENANT LAW IN THE STATE OF HAWAII

HOW IS A RENTAL AGREEMENT CREATED?

Rental agreements may be either written or oral.

Written agreements may be for any length of time: month-to-month, six months, one year, or any other term. All promises and house rules should be included in the agreement.

An oral agreement normally creates a month-to-month tenancy and may not exceed one year. While oral agreements are more easily reached, exact promises and details should not be neglected. Problems often arise when promises are made but are not clearly spelled out.

In addition to the rental agreement, the landlord is required to give the tenant a written inventory detailing the condition of the unit and its furnishings, if any. The inventory should be as specific as possible and should note how clean the unit is. Both the landlord and the tenant should have signed copies of the inventory. If the landlord does not provide this inventory to the tenant, the premises are presumed to be in the same condition on move-out as when the tenant first moved in. The landlord may offer proof to the contrary.

If the owner of the unit does not live on the island, the tenant must also be provided with the name and address of the owner's agent. The agent must reside on the same island as the rental unit.

MAY THE LANDLORD REQUIRE A SECURITY DEPOSIT?

A landlord may require the tenant to provide a security deposit. At the end of the rental, the security deposit may be used to pay for damage to the unit, unpaid rent, unreturned keys, cleaning, or repairs (except for normal wear and tear). The total security deposit may not exceed one month's rent. Landlords are not allowed to have additional deposits, such as a key deposit or a pet deposit, unless the total amount of deposits is not more than one month's rent. [Leases after November 1, 2013 are allowed to have pet deposits, not to exceed one month's rent, but not applicable for assistance animals – Act 206 of 2013 Legislative Session.]

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WHEN DOES THE LANDLORD RETURN THE SECURITY DEPOSIT?

Within 14 days after the tenancy ends (except when the tenant wrongfully quits the unit), the landlord must return the security deposit to the tenant or notify the tenant in writing of the reasons for any deductions and provide copies of all bills or estimates for repairs, cleaning and the like, as well as return any remainder of the security deposit. If written notification is not provided within the 14 day period, no deductions may be made and the entire security deposit must be returned.

CAN THE LANDLORD INCREASE THE RENT?

When the term of a rental agreement is fixed, the rent may be increased only in accordance with the agreement. When the term is month-to-month, the landlord must give the tenant written notice at least 45 days before increasing the rent.

WHEN DOES THE RENTAL AGREEMENT TERMINATE?

When the termination date is stated in the agreement itself, there is no need for any additional notice. When the rental agreement is month-to-month, a landlord must give at least 45 days written notice to the tenant in order to terminate the agreement. If a tenant vacates the unit at any time within the 45 day period, the tenant only needs to pay rent for the days the unit was occupied. If the landlord wants to demolish or convert the unit to a condominium or vacation rental, the tenant must be given at least 120 days written notice.

A tenant who wants to terminate a month-to-month rental agreement must give the landlord at least 28 days written notice. The tenant is responsible for rent through the 28th day.

If the tenant remains in the unit after the termination date without the landlord's consent, the tenant becomes a "holdover tenant" and may be responsible for paying double the monthly rent, calculated on a daily basis, for each day the tenant remains in possession of the unit.

WHAT ARE THE LANDLORD'S DUTIES?

The landlord must provide the tenant with a habitable dwelling unit. The unit must be ready for the tenant on the first day of the tenancy and must conform to all applicable health and safety laws.

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WHAT ARE THE TENANT'S DUTIES?

The tenant must act in good faith and keep the premises in a clean and fit condition. The tenant must comply with all laws and house rules.

WHO IS RESPONSIBLE FOR REPAIRS?

It is the landlord's responsibility to maintain and repair the premises in good faith and in a timely manner. If the landlord does not begin repairs, the tenant may perform the repairs or have them done. The tenant may then provide all receipts to the landlord and deduct from the rent up to \$500 for the tenant's actual expenditures for work done to correct the defective condition.

Different rules apply where the repairs involve an emergency, such as breakdown of a major appliance or electrical or plumbing facilities, or conditions which violate a health or safety code.

The tenant may not repair a dwelling unit at the landlord's expense when the condition complained of was caused by the want of due care by the tenant, a member of the tenant's family, or other person on the premises with the tenant's consent.

In most instances, the tenant may not withhold the payment of rent because of a dispute with the landlord.

DISPUTES – SMALL CLAIMS COURT

Disputes between landlords and tenants that cannot be resolved informally may be filed as a claim in the Small Claims or Regular Claims Division of the District Court. If the dispute involves the security deposit, it must be filed in the Small Claims Division, and no attorney is allowed to represent either party.

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