

# HUD HOUSING EVICTIONS

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## Introduction

As a tenant living in an apartment complex where the landlord has a contract with the United States Department of Housing and Urban Development (HUD), you have greater protection against evictions than most other tenants. This publication briefly describes your rights and the steps you can take to avoid an eviction. This information is important because if you are evicted, you will lose your federal housing assistance.

## When can my landlord evict me?

Your landlord cannot evict you without complying with federal, state, and local laws. The federal requirements for terminating your tenancy are set forth in your lease. You should ask your landlord for a copy of your lease and read it carefully.

Your lease and HUD regulations prevent your landlord from terminating your tenancy except for:

- A. "Material noncompliance" with the rental agreement. This includes:
  - A serious violation of your lease.
  - Repeated minor violations of your lease that disrupt the project, affect the health or safety of any person, interfere with the management, or have an adverse financial impact on the apartment complex.
  - Failure to report changes in your family size or income;
  - Nonpayment of rent.
- B. Material failure to carry out your obligations under the Washington Residential Landlord - Tenant Act;
- C. Criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity of the premises or the health or safety of any on-site property management staff, and any drug-related activity on or near the premises.
- D. Other good cause.

Your HUD lease may have a provision in it holding you responsible for any drug-related criminal activity of any member of your household, any guests, or other persons acting under your control. The United States Supreme Court recently decided that under Federal law tenants in HUD subsidized housing can be evicted when other members of their household or guests commit certain crimes, regardless of whether the tenant knew of or could have prevented such criminal activity. The Washington Residential Landlord Tenant Act only holds tenants responsible for the

criminal acts of others when the tenant allows the activity to occur with the tenant's knowledge or consent. It is unclear whether Washington state law would prevent a landlord from evicting a tenant in HUD subsidized housing without showing that the tenant knew of the criminal activity or failed to take reasonable steps to prevent it. If the criminal activity occurs within your apartment, a court may presume you knew of the activity and failed to take reasonable steps to prevent it unless you prove otherwise.

### **What type of eviction notice must my landlord give me?**

Before evicting you, your landlord must give you a written notice that you have violated your lease. This notice must state when your tenancy will end. It must also state the reasons for the eviction in enough detail so that you can prepare a defense. The notice should state what you did, when you did it, who was involved, and how this violated your lease. If your landlord brings an unlawful detainer action (eviction lawsuit) against you, he or she can only rely on the reasons set forth in the eviction notice. The notice must also advise you that if you fail to move, your landlord can only remove you from your apartment by bringing a lawsuit and that you will have an opportunity to present a defense. The notice should also tell you that you may meet with your landlord to discuss the matter.

Your landlord must mail the notice to you by first-class mail. Your landlord must also give a copy to any adult person answering your door. If no adult is home, your landlord must leave a copy of the notice under your door, if possible, or else post it on the door. Service is not complete until the notice is both mailed and delivered to your apartment.

### **What should I do if I get an eviction notice?**

You should immediately set up a meeting with your landlord to discuss the notice and the steps that must be taken to correct any lease violations. Your request for a meeting should be in writing. You should keep a copy for your records and proof that you gave it to your landlord within the deadline set forth in the eviction notice. If your landlord refuses to meet with you, you can raise this as a defense in court. You should also request to see your file and copy any documents that are related to the dispute. These might include: your lease, written complaints, termination notices, rent payment history, inspection reports, notes of conversations, witness statements, and police reports.

It is better to avoid an eviction lawsuit before it is started than to defend the lawsuit after it has been begun. You should try to settle your dispute with your landlord without a lawsuit. Lawsuits are risky. To avoid any risk of losing your federal housing assistance, it is often advisable to settle your case rather than leave the decision to a court.

### **What happens if I cannot settle my eviction at the meeting?**

Your landlord must file a lawsuit and get a court order before evicting you from your

apartment. Your landlord does not have the right to lock you out of your apartment, to shut off your utilities, or to otherwise remove you from your apartment without a court order. Washington law also prohibits a landlord from taking or keeping your personal property. You should immediately call the police or sheriff if your landlord attempts to illegally evict you or takes your belongings. You should also discuss the matter with a lawyer.

Many times, landlords will delay filing an eviction lawsuit because of the expense. They may also reject your rent in the hope you will voluntarily move. You should not move without first discussing your rights with a lawyer. If you move, you will lose your federal housing assistance! You should continue to pay your rent unless you move. If your landlord rejects your rent, you should set the funds aside to pay your rent at a later date. Do not spend your rent money except to move.

You will be notified that a lawsuit has been started when you are served with a Summons and Complaint for Unlawful Detainer. Once you are served with these papers, you have to take immediate steps to avoid an eviction. The steps that you must take to avoid eviction and to defend the lawsuit are described in our Eviction and Your Defense publication.

You should always serve a copy of a Notice of Appearance or Answer on the lawyer representing your landlord by the deadline stated in the Summons. You may also be required to file other papers, to pay rent to the Court Clerk and to appear for a hearing. If you fail to respond in writing or follow the other instructions in the Summons and any accompanying orders, you may lose without a court hearing (“by default”).

In many cases, your landlord may settle the lawsuit if you will sign a written settlement agreement. This agreement should say what steps you must take to continue your tenancy. It will usually authorize your landlord to evict you if you violate the settlement agreement. As a condition of settlement, your landlord may ask you to pay some of his or her court costs and attorney's fees. Rather than lose your federal housing assistance, it may be to your advantage to pay some court costs and attorney's fees. You should not, however, enter into a settlement agreement that you do not understand or cannot obey. A settlement agreement is a binding contract and will usually be enforced by the court regardless of any hardship it may cause you.

You may want to contact your local Dispute Resolution Center to find out whether it can help mediate your dispute with your landlord.

If your landlord will not negotiate a reasonable settlement, your options are limited. Your only choices will be to defend the lawsuit or to move and give up your federal housing assistance. You should discuss your options, if possible, with a lawyer before moving. If you find it necessary to represent yourself, you must make sure that the court understands that you live in a HUD subsidized apartment. You should always show the judge or court commissioner a copy of your lease, which describes when you can be evicted. See our Eviction and Your Defense publication, which has forms and instructions that will help you defend yourself in court.

## **What happens if I lose the lawsuit?**

If you lose the lawsuit, the court will issue a Writ of Restitution requiring you to move. The court will also enter a judgment against you for unpaid rent, court costs and attorney's fees. Your landlord has at least ten years to attempt to collect the judgment. A publication on Debtor's Rights explains this further.

The Sheriff's office will deliver the Writ of Restitution to you personally or post it on your door within one or two days after the judgment is entered. The Sheriff is required to enforce the Writ within ten days after it is issued, but no sooner than three to five days after it is delivered or posted. The Sheriff will inform you when you must move and the date the sheriff will return if you do not do so. If you are still on the premises when the sheriff returns, then the sheriff will supervise the removal of you and your belongings from your apartment. You may be threatened with arrest or arrested if you attempt to interfere.

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