

HUD Section 8 Moderate Rehabilitation Program Evictions

Introduction

As a tenant living in an apartment complex where the landlord has a contract with a local Housing Authority under the Section 8 Moderate Rehabilitation Program, you have greater protection against evictions than most other tenants. This publication briefly describes your rights and the steps you may take to avoid an eviction. This information is important because, if you are evicted, you will lose your federal housing assistance.

When may my landlord evict me?

Your landlord may not evict you without complying with federal, state, and local laws. The federal requirements for terminating your tenancy should be set forth in your lease. You should ask your landlord for a copy of your lease and read it carefully. Regardless of what your lease says, HUD regulations prevent your landlord from terminating or refusing to renew your tenancy except for:

- Serious or repeated violations of the terms and conditions of the lease. This includes:
 - A serious violation of your lease, such as selling drugs;
 - 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;
 - Nonpayment of rent.
 - Failure to report changes in your family size or income;
- Violation of applicable federal, state, or local law;
- Other good cause; or
- Drug-related criminal activity on or near the premises.

Your lease may have a provision in it holding you responsible for the criminal acts of any member of your household, your guests, or other persons acting under your control. As a result of a recent lawsuit, you should not be evicted for the criminal acts of others unless you knew or should have known of the criminal activity and failed to take reasonable precautions 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.

These provisions apply during and at the end of your lease term. A landlord may not forcibly remove or exclude you from your apartment without filing an “unlawful detainer” (eviction) lawsuit and obtaining a court order that directs you to move out. If your landlord files a lawsuit, you will have a chance to present a defense as long as you respond as instructed in the summons and complaint for unlawful detainer.

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. The notice should also explain that, if your landlord brings an eviction lawsuit, you will have a chance to present a defense.

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 you must take to correct any lease violations. 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, payment records, 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, you should try to settle your case rather than leave the decision to a court commissioner or judge.

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. See our [Tenants' Rights](#) publication for general information about your rights. 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. Those steps 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 don't 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 better 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 have 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 that describes when you can be evicted. Our Eviction and Your Defense publication 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 any unpaid rent, court costs and attorney's fees. Your landlord has at least ten years to attempt to collect the judgment. Our publication on Debtors' Rights in a Lawsuit explains this further.

The Sheriff's office will deliver the Writ of Restitution to you personally or post it on your door. The Sheriff is required to enforce the Writ within ten days after it is issued: but no sooner than three 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.

How May I Get Legal Help?

Low income people may begin seeking legal help by phoning CLEAR, a toll-free intake, advice and referral service run by the Northwest Justice Project, at 1-888-201-1014 between 9:30 A.M. and 12:30 P.M., Monday through Friday.

6114

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, July 2001.

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