

# PUBLIC HOUSING EVICTIONS

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## Introduction

As a public housing tenant, you have greater protection against evictions than most other tenants do. You have these protections because if you are evicted from public housing, you will lose your federal housing subsidy, often worth hundreds of dollars per month. This publication briefly explains what you should do when the Housing Authority tries to evict you from public housing.

## When can the Housing Authority evict me?

Your public housing lease does not automatically expire or terminate at the end of your lease term. Instead, your lease continues until you decide to move or the Housing Authority terminates your tenancy in accordance with your lease and federal, state and local law.

The Housing Authority may not terminate your public housing lease except for:

- A. serious or repeated violations of material terms of the lease;
- B. criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants;
- C. any drug-related activity on or off the premises; or
- D. other good cause.

Your public housing lease may have a provision in it holding you responsible for the criminal acts of any member of your household, any guests, or other persons acting under your control, regardless of where such acts occur. The United States Supreme Court recently decided that under Federal law public housing tenants 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 Housing Authority in Washington from evicting a public housing tenant 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 the Housing Authority give me?

The Housing Authority must give you a written notice stating in detail the reasons the agency is relying upon to evict you. This notice must also tell you of your right to make a reply, your right to examine relevant documents in your file, and your right, if any, to request a hearing in accordance with the Housing Authority's grievance procedure.

As a result of recent changes in federal law, you should have a written, twelve-month lease agreement. In most, but not all, cases, the Housing Authority should give you an opportunity to correct your lease violations and avoid the forfeiture of your public housing lease and federal housing subsidy.

How much time you are given to comply with the notice depends on the reason for the eviction. You should discuss any notice you receive with a lawyer to determine whether the notice complies with the requirements of your lease and federal, state and local law.

### **What should I do if I want to fight the eviction?**

When available, you should take advantage of the Housing Authority's grievance procedure to contest your eviction.

The Housing Authority can, in some cases, deny you a grievance hearing when the eviction involves activity that threatens the health or safety of other tenants or its employees, or drug-related, criminal activity. The Housing Authority cannot deny you a grievance hearing unless their grievance procedure allows them to do so and they provide certain information in their eviction notice. If you are not given an opportunity to ask for a grievance hearing, the Housing Authority cannot recover possession of your apartment or home without a trial unless you fail to respond to their eviction lawsuit.

If you are given an opportunity to do so, you should immediately inform the Housing Authority in writing that you want to fight the eviction under the Housing Authority's Grievance Procedure. This request must be made by the deadline in the eviction notice. You should also get a copy of the Grievance Procedure from the Housing Authority. When you make your request, make a copy of it and have the Housing Authority stamp the date on which they receive it. You should keep the copy for your file as proof that you made the request by the deadline. If you fail to make your request by the deadline, you will lose your right to fight the eviction through the grievance procedure. However, you can still defend the eviction in court.

### **What happens after I request a hearing?**

After you make your request, the Housing Authority must schedule an informal meeting with you to try to settle the dispute. After the meeting, the Housing Authority must prepare a written summary of the meeting and give a copy to you. If the Housing Authority decides to go forward with the eviction, the summary will tell you how to get a grievance hearing. You must submit a written request to the Housing Authority for a grievance hearing within the time stated in the summary or you will lose your right to a hearing. Again, make sure you have a date-stamped copy of your request. Your request should say why you disagree with the decision and what you want done about it.

An impartial hearing officer appointed by the Housing Authority must conduct the Grievance Hearing. The hearing officer may not be the person who made or approved the decision to evict you or someone who works for them. If the hearing officer was involved in the decision to evict you, you should object in writing at the hearing and insist that a new hearing officer or panel be appointed.

You have the right to:

- A. examine all relevant documents;
- B. be represented by a lawyer or nonlawyer;
- C. have a private hearing if requested;
- D. present evidence and argue against evidence relied on by the Housing Authority;  
and
- E. confront and question adverse witnesses. This would include anyone whose testimony or statements the Housing Authority relied upon in making their decision to evict you, regardless of whether they made these statements prior to or during the hearing. The Housing Authority should not be allowed to introduce statements from witnesses who do not appear at the hearing because this will prevent you from cross-examining them.

If you are disabled, the Housing Authority must provide reasonable accommodations for your disability. The Housing Authority should provide a qualified interpreter and accessible hearing room.

Before the hearing, you should review your tenant file and make copies of all relevant documents. These documents may include: your lease, written complaints, termination notices, rent payment history, inspection reports, notes of conversations with the Housing Authority staff, witness statements, and police records. You should ask the Housing Authority to identify which documents it intends to use at the hearing. The Housing Authority cannot use any document at the hearing that it fails to tell you about. The Housing Authority should not be allowed to use any witness statements or police reports unless the witnesses who made the statements are present at the hearing and available to be cross-examined.

After the hearing, the hearing officer or panel must prepare a written decision within a reasonable period of time and give you a copy. The written decision should set forth the reasons for the decision and be supported by evidence presented at the hearing.

### **What can I do if the hearing officer or panel upholds the decision to evict me?**

You can challenge the eviction in court. The Housing Authority must file a lawsuit and obtain a court order before evicting you from your apartment. The Housing Authority 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 the Housing Authority from taking or keeping your personal property. You should immediately contact a lawyer if the Housing Authority attempts to illegally evict you or takes your belongings.

Many times, a Housing Authority 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 the Housing Authority 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 learn 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 and the forms you will need to avoid eviction and to defend the lawsuit are described in our [Eviction and Your Defense](#) publication.

You should always serve a copy of the Notice of Appearance or Answer on the lawyer representing the Housing Authority 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 other documents you receive, you may lose by "default" without a hearing.

In many cases, the Housing Authority may settle the lawsuit if you will sign a written settlement agreement. This agreement should state what steps you must take to continue your tenancy. It will usually authorize the Housing Authority to evict you if you violate the settlement agreement. As a condition of settlement, the Housing Authority may ask you to pay some of their 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 contact your local Dispute Resolution Center, if one exists, to find out whether it can help mediate your dispute with the Housing Authority.

If the Housing Authority 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 public housing. You should always show the judge or court commissioner a copy of your lease, which describes when you may be evicted.

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

If you lose the lawsuit, the court will enter a judgment against you declaring the forfeiture of your lease and issue a Writ of Restitution ordering you to move. The court will also enter a judgment against you for unpaid rent, court costs and attorney's fees. The Housing Authority has at least ten years to attempt to collect the judgment.

The Sheriff's office will deliver the Writ of Restitution to you personally or post it on your door 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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