

SECTION 515 RURAL RENTAL HOUSING TENANT GRIEVANCE AND APPEALS PROCEDURE

Introduction

As a tenant living in an apartment complex financed by the Rural Housing Service (formerly the Farmers Home Administration), you have the right to appeal many decisions you disagree with that are made by your landlord through the agency's tenant grievance and appeals procedure. The procedures governing this process are set forth in the agency's regulations, 7 C.F.R. § 1944, Subpart L, and a handout describing these procedures should be available from your landlord. Congress required the agency to establish an appeals procedure to make sure that tenants who live in Rural Rental Housing Projects will be treated fairly. This process is also available to applicants denied admission to such projects. Although the regulations do not specifically address the question, former tenants may have the right to use the procedure to challenge a landlord's decision to keep their security deposit or to bill them for damages to the unit.

When may an applicant or tenant file a grievance or appeal?

An applicant or tenant may use the grievance and appeals procedure to contest most adverse actions taken by their landlord, including a landlord's failure to act in accordance with the Tenant's lease or agency regulations. In most cases, the landlord is required to notify an applicant or tenant about this procedure. However, it can be used regardless of whether the landlord has done so.

An applicant may use the procedure if his or her application for admission is rejected. A tenant may use the grievance and appeals procedure to challenge a landlord's failure to make repairs, a landlord's violation of the lease, a rule change, a rent change not authorized by the agency or its regulations, and the denial of rental assistance.

The grievance and appeals procedure does not apply to terminations of tenancy or evictions. However, a landlord may not evict any tenant without giving the tenant an opportunity to meet and discuss the eviction and filing a lawsuit. As long as the tenant responds to the lawsuit in a timely manner, the tenant will be given an opportunity to present a defense.

How does the grievance and appeals procedure work?

The agency encourages landlords, applicants and tenants to attempt to settle their disputes without going through this procedure. If this cannot be done, the applicant or tenant has the right to resolve the dispute through the grievance and appeals procedure. This is a two-step process. First, the applicant or tenant files a grievance and meets with the landlord to discuss the matter. If the dispute still cannot be resolved, the applicant or tenant may then request an informal hearing before an impartial, disinterested hearing officer or panel. The hearing officer or panel has the authority to reverse the landlord's decision.

There are time deadlines for filing a grievance and requesting a hearing. An applicant or tenant must be careful to meet these deadlines or the right to challenge the landlord's actions may be waived.

How does an applicant or tenant present a grievance?

An applicant or tenant must file a grievance within 10 calendar days of the action being contested or within 10 days after getting a notice of proposed adverse action. Although a grievance may be presented orally, it is best to put the grievance in writing. An applicant or tenant should keep a copy of their grievance and ask the landlord to date stamp it to show when it was filed.

If asked, a landlord must meet with the applicant or tenant within five (5) working days of the request in an attempt to settle the dispute. If the dispute cannot be resolved to the applicant's or tenant's satisfaction, the landlord must prepare a summary of the meeting within 10 calendar days. The agency has a form that must be used. The landlord should give the applicant or tenant two copies of the summary, retain one in their files, and send one to the agency. The summary should discuss the landlord's position, the applicant or tenant's position, and the results of the meeting. The landlord must also give the applicant or tenant a handout explaining how to request a hearing and how the hearing process works.

How does an applicant or tenant request a hearing?

The applicant or tenant should give the landlord a written request for a hearing within 10 calendar days after receipt of the summary of the informal meeting discussed above. The request should state (1) the reasons why the applicant or tenant is contesting the landlord's decision or action; and (2) what action or relief is desired.

How is the hearing officer or panel selected?

In most cases, the landlord and tenant will jointly select either a hearing officer or hearing panel to decide the case. A hearing officer must be an impartial, disinterested person selected by both parties. If the landlord and tenant cannot agree on a hearing officer, they will each appoint a member to a hearing panel and the members so selected shall select a third member. If the parties cannot agree on a hearing officer or panel within 30 days of the request for a hearing, the landlord must notify the Rural Housing Service and the agency will appoint a person to serve as the hearing officer. A hearing officer or member of a hearing panel serves without compensation.

What rights does the applicant or tenant have to see documents before

the hearing?

Applicants and tenants have the right to examine and, at their own expense, copy all documents, records, and regulations that are relevant to the hearing unless otherwise prohibited by law.

What procedures govern the hearing?

The hearing should be an informal proceeding where both parties are given an opportunity to present their side of the dispute. The applicant or tenant has the right to be represented by legal counsel or another person of their choice or to represent himself or herself. Applicants and tenants have the right to a private hearing. Both sides have the right to present evidence, arguments, and witnesses to support their side of the dispute. They also have the right to refute evidence relied upon by the other side and to confront and cross-examine all witnesses. The hearing officer or panel must make a decision based solely and exclusively upon the facts presented at the hearing.

Although the hearing is not subject to the rules of evidence that apply to hearings in court, the hearing officer or panel must ensure that the tenant has an opportunity to confront and cross-examine all witnesses. This requirement should prevent the landlord from relying on hearsay evidence (when one person tells what he or she heard another person say) to prove its case, without giving the tenant a chance to confront and cross-examine the person who made the original statement. While the rules of evidence do not apply, the hearing officer or panel may take into account the type of evidence being offered in determining what weight to give it.

What happens after the hearing?

The hearing officer or hearing panel must prepare a written decision, setting forth their reasons, within 10 calendar days after the hearing. The decision should state the specific facts presented which were the basis upon which the decision was made. The decision should be sent to the landlord, applicant or tenant, and the Rural Housing Service.

This decision is binding unless the Rural Housing Service notifies the parties within 10 calendar days that the decision violates agency regulations. If this happens, the hearing officer or hearing panel must amend the decision to comply with the agency regulations within 10 days of the agency notice.

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