

LANDLORD/TENANT HANDBOOK

The following information has been compiled to help landlords and tenants avoid or resolve rental-housing disagreements. It is strongly recommended that an attempt be made by both tenants and landlords to initiate communication to work out differences before seeking outside help. If differences arise which the parties are not able to resolve, Mediation service via experienced neutral third party mediators is available to assist in resolving disputes between landlords and tenants or between roommates.

The information in this handbook does not constitute legal advice. There is no assurance that the laws have not changed or been amended. This information is meant to serve only as a general guide and is not intended to be used as a substitute for seeking advice from an attorney or other qualified professionals. In addition, the Colorado Revised Statutes, section 38-12-101 and 13-40-101 may be referenced.

LEASES

Probably the most important advice to be given in resolving landlord/tenant disputes is that both parties read the lease carefully.

A lease (a written rental agreement) sets up the rules between the tenant and the landlord regarding the rental unit. A lease should protect both the landlord and the tenant. Leases can be set for any length of time, but most are for six months or one year. Examples of other provisions a lease sets forth are: identification of the leased property, number of persons who are to reside in the unit, security deposit, rent amount, rent due date, late penalty fee, utility responsibilities, yard care, trash removal, repair responsibility, subleasing and whether pets are allowed. During the term of a lease, changes cannot be made to the lease unless mutually agreed to by both the landlord and the tenant. The landlord and the tenant must sign the lease. If there is something in the lease that you do not understand or agree with, *DO NOT SIGN IT* until the issue is resolved. Once the lease is signed, both parties are bound to it. A standard lease form can be obtained from a book or stationery store. Provisions can be added to these forms to meet any special needs. If there is not a written lease and the rent is paid monthly, the tenancy is considered month-to-month. To protect both of you, make sure any agreements that are made that are not part of the original lease, are put in writing no matter how much you trust each other. If anything were to go wrong, most judges will not even let "oral agreements" be presented in court.

Be alert to clauses in written leases which require the tenant to give up certain rights such as a clause which allows the landlord to evict a tenant for nonpayment of rent without a three-day notice. A three-day notice is required by Colorado law and cannot be waived by a tenant. Other questionable clauses may only be determined unenforceable by a court. If any party has a question concerning the enforceability of a term of a lease legal advice should be sought from an attorney.

More Than One Tenant: Joint and Several Liability

When more than one tenant signs a lease for a particular residence, each tenant is responsible for all of the conditions of the lease. For example, each tenant is individually responsible for all of the rent and all of the damages regardless of the means the tenants use to divide the rent between them and regardless of which tenant actually caused the damage. This is called “**joint and several liability**.” If one person does not pay the rent, the other tenants are liable for payment of that person’s share or they are all subject to eviction for non-payment of rent. It is up to the other tenants, not the landlord, to collect from the non-paying tenant. By the same token, if one tenant damages the premises, the landlord may deduct the damages from the tenant who caused the damage, or the landlord may choose to deduct money from all of the tenants’ deposits. For better self-protection, it’s useful for tenants to execute a “**roommate agreement**” which spells out each tenant’s obligations to another, such as what portion of rent each will pay, responsibility for damages, division of payment for utilities, duration of the rental period, responsibility for finding a replacement tenant upon early termination, and payment of rent until a replacement is found. A roommate agreement is not binding on the landlord.

TERMINATION OF THE LEASE

Termination is the end of a tenancy and occurs at the end of the lease term or as a result of mutual agreement to terminate the lease prior to the end of the lease term.

Termination of the Lease for a Definite Term (or a one-year lease)

If a lease has a date of termination or a definite term and if there is no mention of a requirement to give notice of termination, then the lease expires and the tenant is responsible to leave the premises on the date or at the end of the term stated. The landlord is under no obligation to automatically renew the lease with the tenant. **If a lease does require that a tenant give notice of termination prior to the stated expiration of the lease, then the specified amount of notice must be given before a tenant is free and clear of his/her obligation.**

Many leases contain hold-over clauses which allow the tenant to continue the tenancy on a month-to-month basis following the expiration of the initial term of the lease. The lease should be consulted carefully to determine all termination and hold-over provisions.

Termination of a Month-to-Month Lease

A month-to-month lease is a rental agreement for a one-month period which is renewed automatically each month for another month until properly terminated by either party. A month-to-month tenancy is usually created when a tenant moves into the unit and begins to pay rent on a specified date without signing a lease. A month-to-month tenancy can also be created using a written lease.

If someone previously had a lease which was not renewed, but the individual remained a renter, then the lease is considered to have rolled over into a month-to-month lease. The terms for termination and some other rights and obligations established in the expired written lease may still be applicable unless altered with the knowledge of all parties.

To terminate a month-to-month lease, State law requires that written notice of intent to terminate must be given at least 10 days before the last day of the rental month which has already been paid, that is, 11 days prior to the next rental payment due date. In a written lease, for example, start from the day when the rent is due then count back 10 days. To terminate a month-to-month tenancy, the tenant or the landlord (whoever is initiating the termination) needs to provide written notice of intent to terminate by mailing or hand-delivering a copy of the notice to the other party.

In a written lease, it is acceptable to establish and require that a notice of intent to terminate be given at a period of time longer than the 10 days required by law under Section 13-40-107 C.R.S.

Written leases commonly require a 30-day notice. The failure of either party to provide proper written notice will obligate both parties to another month's tenancy.

EVICTION

The legal term for eviction is "Forcible Entry and Detainer" (FED). Eviction occurs when the court enters an order for the tenant to vacate the property. **This court order is enforceable only by the sheriff.** It allows the sheriff to monitor the removal of the tenant and their property from the premises.

Evictions without Court Order

It is never legal for a landlord to evict a tenant without a court order.

When a Tenant Has Not Paid Rent

Before filing a suit to evict a tenant for nonpayment of rent, the landlord must give the tenant a written signed Three Day Demand For Compliance Or Possession, giving the tenant the choice of either paying the past due rent or moving out within three days. The landlord can serve the tenant this demand by posting a three-day notice in a conspicuous place on the premises or by leaving a copy with a resident in the household over the age of 18. If service is by posting, a copy must **also** be mailed the next day. In computing the three days, the first day is excluded. Therefore, the three-day time period begins the day following the posting. After the notice has been given and if the tenant has not paid the rent or moved out within three days, the landlord need not accept the rent and may file an eviction suit. The time begins running whether or not the tenant discovers it posted. Also the time continues to run regardless of whether it is a Saturday, a Sunday, or a holiday. The tenant's legal right to this three-day notice prior to eviction for nonpayment of rent cannot be taken away by the language in a lease.

When a Tenant has Broken a Condition of the Lease

Before filing a suit to evict a tenant for noncompliance with lease conditions, the landlord must give the tenant a written signed Three Day Demand For Compliance Or Possession giving the tenant the choice of either curing the noncompliance or moving out within three days. The landlord can serve the tenant this demand by posting a three-day notice in a conspicuous place on the premises or by leaving a copy with a resident in the household over the age of 18. If service is by posting, a copy must **also** be mailed the next day. In computing the three days the first day is excluded. Therefore, the three-day time period begins the day following the posting. The notice must state the reason the landlord believes the tenant is in violation of the lease and give the tenant three days to either move out voluntarily or correct the violation. (Noise violations are particularly difficult issues for both landlords and tenants regarding eviction.) After the written notice has been given, and if the tenant has not moved out by the end of the three days, and has not corrected the violation, the landlord may file an eviction. The start of the three-day time limit begins running whether or not the tenant discovers it posted. Also, the time continues to run regardless of whether it is a Saturday, a Sunday or a holiday.

When a Tenant has Repeated or "Substantial" Violations of the Lease

Under certain conditions involving repeated violations for which the three-day notice has been previously given, or serious violations usually involving drugs or violence defined by statute, an eviction may be sought by posting or delivering a Notice to Quit, which does not give

a tenant an opportunity to “cure” the problem but simply advises the tenant to leave within three days. A victim of domestic violence is generally not subject to eviction under this provision. Legal advice should be sought to determine if circumstances warrant this action.

Roommate Problems in Evictions

When a problem arises in a roommate situation, eviction can only be undertaken by the landlord. If someone other than the owner of the property is seeking eviction of a tenant, assistance from an attorney is recommended. Legal advice should also be sought in cases where confusion exists regarding legal rights and responsibilities by any of the roommates, such as in sublease situations.

In all circumstances, written roommate agreements are recommended to clarify roommate responsibilities and expectations.

For assistance in resolving roommate conflicts, call the Community Mediation Service.

Tenant’s Continuing Liability for Rent

If a tenant leaves the premises before the end of the lease term in compliance with a landlord’s demand to vacate, the tenant may still be responsible under the terms of their lease to pay rent or other costs. However, Colorado courts view the election of the eviction remedy as terminating the lease, and costs owed by tenants may be limited accordingly.

Eviction Procedure

A. Three-Day Notice

If the proper three-day written notice has been given to the tenant, the tenant should immediately call the landlord, the Community Mediation Service, and/or legal counsel to attempt to resolve the issues, or comply with the lease (if the eviction is for breaking a clause of the lease, e.g., non-payment of rent, noise, pets, guests.) If the situation has not been remedied within the three-day time period, the landlord may initiate an eviction suit under a specific procedure set forth by laws of the State of Colorado in a statute entitled “Forcible Entry and Detainer.” (Section 13-40-101 et seq., C.R.S.)

Once the landlord has obtained a court order for eviction, the sheriff should be contacted so that they can monitor the process. By state law, the prevailing party in a Forcible Entry and Detainer suit is entitled to an award of reasonable attorney’s fees and costs of the lawsuit.

B. In Event of a Lockout

Any form of self-help eviction by a landlord, including locking a tenant out of the premises, is not permissible. Actions such as physical contact or intimidation should be reported to the police. If a tenant is locked out, the tenant may not force their way back into the premises. A tenant should seek legal advice prior to attempting to re-enter the premises on their own.

UNINHABITABLE PREMISES-CONSTRUCTIVE EVICTION

Unless otherwise expressly agreed, there is an implied agreement in every lease for real property that the landlord will refrain from acts or omissions which interfere with the tenant’s right of peaceable enjoyment of the premises. If this implied agreement is breached by the landlord, either by act or by omission, resulting in the premises becoming **legally uninhabitable**, the tenant may vacate the premises, terminate the lease, and owe no further rent. The premises become legally uninhabitable when there is a disturbance of the renter’s possession by the landlord which renders the premises unfit for occupancy for the purposes leased. To exercise this remedy, the tenant may need to abandon the premises. Before the tenant is justified in moving out, the landlord must also have been given notice of the problem by the tenant and a reasonable time in which to remedy the situation. Only in extreme conditions may a tenant vacate the

premises and stop paying rent. For example, where the heating and plumbing stopped functioning and the ceiling collapsed – the premises were found to be legally uninhabitable. This remedy should never be attempted without first talking to an attorney.

SECURITY DEPOSIT

Security deposits are regulated by Colorado law, Section 38-12-101, et seq., C.R.S. A security deposit, also called a damage deposit, is any advance or deposit of money used to secure the performance of the lease. This deposit may be retained by the landlord for the following: any unpaid rent or utility bills owed by the tenant; payment for damages to the premises beyond normal wear and tear; any cleaning the tenant agreed to in the lease; and any other breach of the lease causing financial damage to the landlord. “Normal wear and tear” is defined by Colorado statute to mean “that deterioration which occurs based upon the use for which the rental unit is intended, without negligence, carelessness, accident, or abuse of the premises or equipment or chattel by the tenant or members of his household or their invitee or guests.” Examples of normal wear and tear include worn tracking in the carpet. Normal wear and tear does not include nail holes in the walls, stains on carpets, and mold on grout.

Return of Security Deposit

If the tenant has fulfilled all the terms of the lease (including giving the landlord proper notice, if required), has paid the rent in full and on time, has left no financial obligation to the landlord, and has caused no damage beyond ordinary wear and tear, the tenant is entitled to a full return of the security deposit. The tenant should collect the security deposit in person or leave a forwarding address with the landlord so that the landlord can return the deposit.

Colorado law requires that the landlord return the security deposit or send an itemized statement of the deductions and the balance of the deposit, if any, to the tenant within 30 days after termination of the tenancy. This time period may be extended up to 60 days if written in the lease. The landlord must either deliver or mail the full deposit or a statement of deductions and the balance of the deposit to the **last known address of the tenant**. If the landlord fails to provide a written statement of deductions and the balance of the deposit in full within the specified time period, the landlord forfeits his/her right to withhold any portion of the security deposit. However, the landlord retains the right to pursue damages by counter-claim against the tenant in a lawsuit for unpaid rent or for any of the charges he could have otherwise deducted from the damage deposit or any other financial obligation owed by the tenant. Treble damages may be ordered against the landlord in a lawsuit for a security deposit not returned within the required time period.

Withholding of Security Deposit

If the tenant vacates prior to the termination of the lease, or if the tenant never moves in but has signed a lease, or has given money to hold the unit, the landlord may apply the security deposit to the unpaid rent for the remainder of the lease term. Once an agreement is reached between the parties and a lease is signed, there is no time period in which parties have the opportunity to back out of the agreement.

The landlord may also charge for any damage to the premises, provided s/he furnishes the tenant with an itemized statement within the time period specified in the lease. In addition, if the landlord's damages exceed the security deposit the landlord may sue the tenant to recover such damages.

Rent Liability for Early Move-Out

The landlord must make a reasonable effort to re-rent the premises if the tenant moves out early. The tenant may be responsible for rent until the premises are re-rented or until the lease expires. If the unit is re-rented for a lower amount, the tenant may be assessed the difference in the rent. The tenant may also be charged for the landlord's reasonable costs of re-renting. It is important to look to the lease to see who is responsible for re-renting the unit.

Recourse for Withheld Security Deposit

If the landlord does not return the security deposit or does not send an itemized list of deductions within the required time period, **or if the tenant disagrees with the deductions made by the landlord**, the tenant should take the following steps:

1. Attempt to negotiate with the landlord for the return of the security deposit.
2. Send a letter to the landlord. This letter, called a "Seven-day Demand letter," should state that the tenant will sue the landlord for three times the amount of the deposit withheld if the deposit is not returned to the tenant within seven days of the receipt of the letter. A template for this letter is available [online](#). The letter must state:
 - a) the address of the prior rental premises,
 - b) the dates of the tenant's occupancy,
 - c) the amount of the security deposit originally paid,
 - d) the tenant's current mailing address, and
 - e) (if applicable) a statement by the tenant explaining any disagreement with charges withheld from the deposit.

The letter should be sent by certified mail, return receipt requested. The tenant may also send a copy via regular mail. The tenant should keep a copy of the letter and the certified mail receipt.

If the landlord returns the deposit in full or pays the tenant the disputed portion of the deposit within seven days of the landlord's receipt of the letter, the matter is resolved.

3. If the landlord does not return the deposit within the seven days, the tenant may sue the landlord to obtain the return of the security deposit. The tenant may request three times the amount of the deposit that has been withheld plus reasonable attorney's fees and court costs. In court, the landlord may counterclaim against the tenant for any damages caused by the tenant. **Note: Under most leases, the losing party in a court action is responsible to pay attorney's fees for the winning party.**

4. Contact the Community Mediation Service to arrange to mediate an out-of-court settlement (303-441-4364). Mediation is often faster, less stressful, and cheaper than going to court. Trained, neutral mediators will help to facilitate a negotiation process that often results in agreements that both parties feel are fair and that are tailored to meet the needs of the individuals involved.

Division of Security Deposit in roommate situations

The landlord may divide the security deposit return equally among the tenants or may send the entire return amount to one tenant. It is helpful if the tenants agree in advance how the security deposit or its remaining balance is to be disbursed. A signed agreement to this effect should be presented to the landlord. Samples of Roommate Agreements are available through the Community Mediation Service (303-441-4364)..

Precautions to Prove the Condition of the Premises

Before the tenant moves into the premises, a list of all existing damages and necessary cleaning should be prepared and signed by all parties. If either party is unavailable or unwilling

to do this, another person should witness the inventory, sign the list and then provide the other party with a copy of this list. In addition, it is best to take photographs of individual rooms and specific items to document their condition.

Upon moving out, the tenant should make an appointment with the landlord to accompany the landlord on a tour of the premises, listing damages or necessary cleaning. The tenant and the landlord should sign both copies of the list and keep a copy for their records. To minimize future disputes, if the landlord is unavailable or unwilling to do a walk-through, the tenant should have another person witness the condition of the unit and sign the list.

REPAIRS AND MAINTENANCE

A tenant who withholds rent until repairs are made can be legally evicted for nonpayment of rent. Colorado law does NOT provide for a tenant to make the repairs himself/herself and then deduct these costs from the rent.

Except for common areas and facilities in multi-unit properties, the landlord is required to repair and maintain the premises **only** if:

1. There is a specific agreement between the landlord and the tenant (such as a lease) which specifies that the landlord is responsible for repairing or maintaining the premises; or
2. There is a specific agreement between the landlord and the tenant that the landlord will make specific repairs (such as an attachment to the lease or a letter of promise).

What a Tenant May Do When Repairs are Needed

To determine who is liable for repairs, the tenant should check the lease to see if the lease states who is responsible for maintaining and repairing the premises. If the landlord is responsible, the tenant should first contact the landlord. If the landlord refuses to act promptly, the tenant may then:

1. Present a written list of the needed repairs to the landlord requesting that the repairs be made by a certain date
2. Offer to help cooperate by arranging to be home when the repair person arrives

The tenant should always:

1. Keep a copy of any notes or letters to the landlord
2. Follow-up any verbal agreements with the landlord by a letter confirming the agreement
3. Be reasonable in allowing the landlord time to make the repairs
4. Follow-up with a written reminder to the landlord if the repairs have not been made.

When Repairs are not made in timely fashion:

If the landlord was obligated to repair (through a lease, Housing Code, or some other agreement), and repairs were not made, a tenant may be able to receive some financial compensation for not having the repairs completed or use of the amenities (such as appliances or a flooded room). The determination of how much less a rental home was worth because the repairs were not made is a negotiation. The tenant may ask the landlord for a decrease in rent. The concept of rent reimbursement is known as diminished value of the premises. Consult an attorney before you attempt this as principles of contract law are involved.

DISCRIMINATION

A landlord may not discriminate against a tenant on the basis of “. . . race, creed, color, sex, sexual orientation, gender variance, genetic characteristics, marital status, religion, national origin, ancestry, pregnancy, parenthood, custody of a minor child, or mental or physical

disability of the individual or such individual's friends or associates. . . ." Other than denial of housing to an individual, discrimination also includes charging different rents or deposits, requiring different lengths of lease, or establishing different lease conditions on the basis of the above-listed categories.

The Federal Fair Housing Act also prohibits discrimination. The terms of the Act may be utilized by private parties against landlords who discriminate.

PRIVACY

Colorado law implies a covenant of quiet enjoyment, and this protects tenants' privacy in principle. However, enforcement is difficult. A landlord may inspect, do repair work, or show the premises to prospective buyers without notice and at any time if the lease states that the landlord has retained the right to control, re-enter, or repair the premises. To protect this right, a tenant should negotiate with the landlord to include language in the lease assuring privacy and providing some notice in advance.

Most Leases spell out terms for entry by the landlord: "Resident shall permit owner/agent to enter the premises at reasonable times and upon reasonable notice for the purpose of making necessary or convenient repairs or reasonable inspections, or to show the premises to prospective residents, purchasers, or lenders. Entry may be made without prior notice only if owner/agent reasonably believes that an emergency exists, such as a fire or broken water pipe, or that the premises have been abandoned."

If a tenant believes that the landlord is interfering with their right to privacy, the tenant should try to resolve the problem by negotiating an agreement with the landlord regarding entry, including reasons, times, and advance notice required. This negotiation may start with a clear letter identifying the problem. If an agreement cannot be reached the advice of an attorney should be sought or mediation can be requested through the Community Mediation Service.

If a lease provides a landlord the right of entry or the right to retain control of the residence, and the tenant denies entry, the landlord may begin eviction proceedings against the tenant. Threats, intimidation, and continued invasion of a tenant's privacy need not be tolerated. If intrusions or tensions over showings persist, seek legal advice and mediation.

There are no laws against a tenant replacing locks on the premises if a tenant wishes to prevent unreasonable visits by the landlord. However, the tenant will be liable for any damages, and the landlord can retain from the security deposit the cost for removal of locks. Before a tenant denies entry to a landlord for any reason, an attorney should be consulted.

Habitability Code

Habitability is the condition of a building in which inhabitants can live free of serious defects that might harm their health and safety (example - a lack of running water or heat adversely affects the apartment habitability). A Colorado Revised Statute does not exist covering this type code. There are a number of communities, which have habitability codes, for more information check with the Community Development Planning Office within the city where you reside.

Visit Here for more information:

http://www.state.co.us/gov_dir/leg_dir/olls/sl2008a/sl_387.pdf

MISCELLANEOUS

Tenant's Personal Property

The landlord is **not** responsible for damage to the tenant's personal property **unless** such damage was caused by his/her negligence. A tenant should purchase renter's insurance to protect his/her personal property.

Fees for Late Payment of Rent

If specified within the lease agreement, late fees may be assessed by landlords when rent is past due. However, a fee of more than 5 to 10 percent of the monthly rent may be disallowed in court as excessive.

Landlord Lien

Colorado law provides that in certain situations a landlord may have a lien on some items of a tenant's personal property for past due rent. **Prior to taking such action, the landlord should seek legal advice from an attorney as s/he could be liable to the tenant for actual punitive damages if a lien is improperly exercised.** If property has been seized, the tenant should document in writing the property taken as well as keeping all written notices received from the landlord. Whenever involved with the exercise of a landlord lien, whether as a tenant or a landlord, legal advice should be sought.

When Rental Property is Sold

When rental property is sold, the new owner is subject to all rental obligations of the previous owner unless the lease provides otherwise. The new owner may increase the rent or change the other lease terms only upon the expiration date of the existing lease.

Rent Increases

If a lease specifies the amount of rent to be paid, it cannot be raised during the lease period. However, after the lease expires, the lease may still control the rent amount. At the present time, under Colorado law there is no rent control. Once the lease has expired the agreed rent amount may change. Refer to "Termination of the Lease" for additional information.

Subleases and Assignments

A sublease and an assignment are not the same thing. A sublease is a second contract between the landlord and a new tenant. It doesn't relieve the original tenant from their obligations under the lease. For example, if a subtenant doesn't pay rent the landlord may sue the original tenant, the subtenant, or both. The landlord may or may not require a new security deposit on a sublease.

An assignment is a contract between the landlord and a second tenant which relieves the original tenant of their obligation under the lease. If the second tenant doesn't pay rent, the landlord may only sue that tenant. On an assignment, the landlord will almost always require a new security deposit from the second tenant.

Subleases and assignments may only occur with the landlord's permission. Under Colorado law a landlord may not unreasonably withhold permission to sublet. Check your lease for a sublease or assignment clause.

Trespass By Landlord

The tenant has the right to peaceful enjoyment of the property, but the lease can modify this right. Unless the lease provides otherwise, the landlord does not have a right to enter the property without permission of the tenant except to demand payment of rent or to make emergency repairs. A tenant can sue a landlord for violating the tenant's rights.

Lockout By Landlord

Under most circumstances, a landlord should not "lockout" a tenant for any reason without a court order. The landlord may be held responsible for interfering with the tenant's right to "peaceful possession" until a legal court eviction. A landlord who illegally locks out a tenant risks being sued for damages.

Written Notice*

Written notice should contain the following: 1) the date, 2) the address of the rental unit, 3) the dollar amount of the rent owed or the lease violation, 4) the tenant's options of paying the rent or complying with the lease within three days or vacating the unit, 5) the notice must be signed by the landlord or the agent for the landlord, 6) if the tenant pays the full rent owed and/or complies with other terms of the lease within 3 days, this cancels the eviction, and 7) the Computation of Time law states that the 3-day period begins the day after the notice is given, and the last day of the 3 days cannot end on a Saturday, Sunday, or legal holiday.

CONCLUSION

In general, both parties should keep good records, including copies of notes, letters and photographs. Make all agreements specific, and keep them. Both parties should make an effort to talk to each other and try to understand each other's point of view. Strive to make the landlord-tenant relationship work in a context of what is reasonable, fair and respectful of the needs of both parties.

If disagreements arise, every effort should be made to negotiate a settlement. Write down any agreements that are reached. If direct negotiation isn't successful, mediation is often the next best alternative. Mediation is an assisted negotiation process in which a neutral mediator helps the parties communicate and listen to each other's point of view, develop a list of issues to be resolved, and negotiate a settlement that meets both parties' needs. Agreements reached in mediation are drawn up by the mediator and signed by the parties.

RESOURCE LIST

Counseling Services

If you need further assistance, contact Tenant Landlord Counseling at (303) 237-0230 or Community Housing Services at (303) 831-1935.

Move Out Resource

Who is responsible for cleaning up the property?

Unless specifically stated in the lease, the tenant is responsible to return the property in the state in which they found it, excluding normal wear and tear.

What is normal wear and tear?

Normal wear and tear includes deterioration of the premises that occurs during normal conditions. For example, paint may fade, electrical switches may wear out and break, pull strings on blinds may fray or break, carpet and tile may wear down.

These things happen even if the tenant cleans regularly and cares for the premises reasonably. Damage occurs from unreasonable use or accidents. Damage can include extreme build up of dirt, mold, etc., stains on carpets, and broken windows. Even intentional alterations to the premises are considered damage. For example, the tenant cannot leave large holes in the walls from shelving or hanging pictures, and cannot repaint the walls to significantly change the color. If a tenant wants to make changes to the premises that will remain after the tenant moves out, the tenant should do so only with the landlord's written permission.

The parties can, and in some states must, take steps to avoid disputes over damage. At the beginning of the lease term, the tenant should inspect the premises thoroughly and note all problems in writing on a check in/check out form. Both the tenant and the landlord should sign and date the list. At the end of the lease, the tenant should again inspect the premises with the landlord present, discuss any damage with the landlord, and check any problems found against the move in check list. The landlord is not required to be present to do a walkthrough together with the tenant.

The following , but by no means comprehensive, list is intended as a guide to reasonable interpretation of the differences between expected wear and tear from normal residential use and irresponsible or intentional actions that cause damage to a landlord's property.

Wear & Tear	Damages
Worn out keys	Lost keys
Loose or stubborn door lock	Broken or missing locks

Loose hinges or handles on doors	Damage to a door from forced entry
Worn and dirty carpeting	Torn, stained or burned carpeting
Carpet seam unglued	Rust or oil stains on carpet
Scuffed up wood floors	Badly scratched or gouged wood floors
Linoleum worn thin	Linoleum with tears or holes
Worn countertop	Burns and cuts in countertop
Stain on ceiling from rain or bad plumbing	Stain on ceiling from overflowed tub
Plaster cracks from settling	Holes in walls from kids or carelessness
Faded, chipped or cracked paint	Unapproved (bad) tenant paint job
Loose wallpaper	Ripped or marked-up wallpaper
Balky drapery rod	Broken drapery rod
Faded curtains and drapes	Torn or missing curtains and drapes

Heat blistered blinds	Blinds with bent slats
Dirty window or door screens	Torn or missing screens
Sticky window	Broken window
Loose or inoperable faucet handle	Broken or missing faucet handle
Toilet runs or wobbles	Broken toilet seat or tank top
Urine odor around toilet	Urine or pet odor throughout unit
Closet bi-fold door off track	Damaged or missing bi-fold door

This wear and tear information was obtained from Rental Housing online.