

## Frequently Asked Questions Regarding Landlord/Tenant Issues in Florida

### Is A Written Lease For A Residence Necessary?

A written lease is not required, but it is a good idea because a lease defines what the landlord (owner) and the tenant (renter) must do.

### What Happens If I Break A Lease?

You may be sued depending upon the provisions of the lease. You may be liable for damages, unpaid rent, advertising expenses, court costs, attorney's fees, etc. You may lose your deposit depending on the provision of the lease.

### How Much Notice Must A Landlord Give The Tenant To Move Out Of The Residence?

Unless the lease states some specific period of time, the amount of notice depends on the rent payable period. If the rent is paid every week, the landlord must give seven days notice prior to the end of the weekly period. If the rent is paid every month, the landlord must give 15 days notice before the end of the month (§ 83.57, Fla. Stat.). If the tenant continues to occupy the premises after the expiration of the lease (without permission) or if the landlord has terminated the rental agreement for any of the reasons allowed under the Landlord and Tenant Act and the tenant does not move, the landlord can start eviction procedures and/or increased rental payments. In the case of non-payment of rent, the landlord must serve the tenant with a written notice allowing 3 days (excluding weekends and legal holidays) in which to pay the rent or move. In order to gain possession of the dwelling, the landlord must file suit in court, providing the court with a copy of the three-day notice. The tenant then has 5 days, excluding weekends and legal holidays, to respond in writing to the court and to post the amount of rent claimed to be due in the court registry, unless the tenant is claiming that the rent was already paid. If the tenant does not respond or a judgment is entered against the tenant, the clerk of the county court will issue a writ of possession to the sheriff and the tenant will have only 24 hours notice prior to eviction (§ 83.56, Fla. Stat.).

Florida law does not allow the landlord to use self-help eviction. The landlord is not allowed to:

- a. Shut off the utilities (water, gas, electricity, etc.) even if the service is in the landlord's name.
- b. Change the locks or use any boot lock or similar device, except for repair, maintenance or replacement.
- c. Remove the outside doors, locks, roof, walls or windows.
- d. Remove the tenant's personal property from the dwelling unit unless proper legal action has been taken.

If this occurs, the tenant may sue for actual and consequential damages or three months rent, whichever is greater, plus court costs and attorneys' fees (§ 83.64; § 83.67; and § 83.51, Fla. Stat.)

### **Should A Tenant Get Interest On A Security Deposit Or Advance Rent?**

A landlord may hold a security deposit or advance rent in a separate non-interest bearing account or in a separate interest-bearing account with the tenant receiving interest per Florida Statutes (§ 83.49, Fla. Stat.).

### **How Can The Tenant Tell If The Landlord Is Using An Interest Or Non-Interest Bearing Account?**

The landlord must notify the tenant in writing within 30 days of receiving the security deposit or advance rent how and where the money is held (§ 83.49, Fla. Stat.).

### **Can The Tenant Get His Or Her Security Deposit Back?**

Once a tenant vacates the premises at the end of the rental agreement or abandonment with proper notice to the landlord, the landlord has 15 days to refund the security deposit or 30 days to send a certified letter to the tenant imposing a claim on the deposit and stating the amount and the reason for the claim. If this notice is not sent as required, the landlord forfeits the right to impose a claim. Should the tenant, however, fail to give the landlord at least 7 days written notice prior to vacating, the landlord is not required to send the written notice of claim. Unless the tenant objects in writing to the landlord within 15 days of receipt of the claim letter, the landlord must return the deposit less the landlord's claim within 30 days of the date of the landlord's claim notice. After the tenant objects, should the landlord and the tenant not be able to reach an agreement, the matter may be taken to court (§ 83.49, Fla. Stat.).

### **Does The Landlord Have A Right To Come Into The Tenant's Residence?**

The landlord or those hired to perform work for the landlord may enter the residence from time to time to inspect the premises; make necessary or agreed repairs, decorations, alterations, or improvements; supply agreed services; or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors. The landlord may also enter the residence without the consent of the tenant, in case of emergency, when the tenant unreasonably withholds consent, or when the tenant is absent from the dwelling for a time equal to one-half of the rental period. Unless, the tenant has notified the landlord of the absence and paid the rent (§ 83.53, Fla. Stat.).

### **What Must The Landlord Do To Maintain The Premises?**

The landlord must follow all applicable building, housing and health codes and statutes. This usually means keeping roofs, windows, screens, doors, floors, steps, porches, exterior walls, foundations, and structural components in good repair and the plumbing in reasonable working condition. Unless otherwise agreed in writing, for any rental other than a single family house or duplex, the landlord also must provide for locks and keys, the clean and safe condition of common areas, removal of garbage and provide garbage receptacles, extermination of rodents, roaches, ants and termites, functioning facilities for heat during winter, hot water and running water. The tenant may be charged for utilities, water, fuel and garbage removal (§ 83.51, Fla. Stat.).

### **What Must The Tenant Do To Maintain The Premises?**

The tenant must also follow applicable building, housing and health codes and statutes. The tenant has an obligation to keep the premises clean and sanitary; remove garbage; keep plumbing fixtures clean, sanitary and in repair; use equipment and appliances in a reasonable manner; not destroy, deface or remove property of the landlord or allow those visiting to do so; and to conduct self, family and others in a manner which does not disturb neighbors or breach the peace (§ 83.52, Fla. Stat.)

### **Do I Have To Pay Rent If The Property Is Under Foreclosure?**

A tenant is liable according to the terms of the lease. The filing of a foreclosure suit does not typically terminate a lease, and a failure to pay rent may result in breach of contract (See WHAT HAPPENS IF I BREAK A LEASE above). A tenant may also have certain rights in a foreclosure suit to protect himself. You may need to contact your legal representative regarding your particular rights during a foreclosure suit.

For more information concerning landlord and tenant law, contact Haslett Law, P.A. at (904) 297-1316.