

Tyndall AFB Preventive Law Program Series
Legal Assistance Series

**FLORIDA LANDLORD
TENANT LAW**

This handout contains basic information. If you have specific questions, come in to see a Judge Advocate for legal assistance.



OFFICE OF
THE STAFF JUDGE ADVOCATE 325 FW/JA
TYNDALL AFB, FL 32403

FLORIDA LANDLORD TENANT LAW

INTRODUCTION

Florida has set out laws that govern the rights and responsibilities of landlords and tenants. Entering in to a lease may give the landlord and tenant even more rights and responsibilities. This handout highlights issues that affect the rights of landlords and tenants. The Florida Landlord and Tenant Act is found in Section 83 of the Florida Statutes.

ENTERING INTO A RENTAL AGREEMENT

A rental agreement should be in writing. A written rental agreement is generally known as a lease. The tenant should keep a copy of the signed lease in a place where it can be easily found. There are several terms that should be found in every lease agreement.

Rent: The lease should state the amount of money due each month, when the rent is due and where it is to be paid. Rent must be paid when it is due. Many leases have a clause that entitles the landlord to a late fee if the rent is not paid on time. Florida law states that if the tenant is late in paying his or her rent, the landlord may send a “3 day notice” demanding that if rent is not paid within 3 days not including weekends and holidays, the landlord may terminate the lease. Florida law then sets out the procedures for removing the tenant from the dwelling. These procedures must be followed in accordance with Florida law.

Duration of the Tenancy: The lease should state how long the tenant would be renting. If it does not, the law says that the rental period is determined by how often the tenant is supposed to pay rent. For example, if the tenant is to pay rent once a month, the rental period is monthly (known as a month-to-month tenancy). It is important to know the duration of the tenancy if either the landlord or the tenant wants to end the lease.

Military Clause: Florida statutes address some terminations of rental agreements by a member of the United States Armed Forces. It allows for the termination of leases, among other things, if the military member dies, released from active duty, or there is a PCS of more than 35 miles. However, a member must have completed at least 9 months of the lease. If the member only completes 6 months, then the landlord may have a right to charge ½ month’s rent for liquidated damages. If the member completes less than 6 months, then the landlord may have a right to charge 1 month’s rent for liquidated damages. Florida statute does not allow either the landlord or the tenant to waive or modify these rules in the lease. Members may still negotiate for a clause that would allow them to terminate the lease in the event they are authorized on-base housing. Lastly, remember that proper notice is still required. Proper notice may involve proof of death, orders or separation and should normally be given at least 30 days before termination.

Security Deposit: Tenants are generally required to provide a security deposit, which the landlord must keep it in a segregated non-interest or interest bearing account within the State of Florida. Within 30 days the landlord must advise the tenant in writing how the security deposit is being

held. Most leases state the charges that will be taken out of the security deposit after the tenant moves from the rental property. These include painting, professional carpet cleaning, and, if pets are involved, flea spraying. To get the most back from the security deposit, the tenant should extensively clean the rental property before moving out.

MOVING IN:

The new tenant should thoroughly examine the condition of the rental property before moving in. Both the landlord and the tenant should do an inspection of the rental property. After the “walk-thru,” the landlord and tenant should write down the condition of all items, especially the following:

- All walls, including paint, holes and cracks;
- The carpet, tile and linoleum;
- All appliances, including the stove, oven, refrigerator, microwave, dishwasher, garbage disposal;
- The plumbing system, including the toilet, shower and sink; and
- All locks and windows.

This list will be used when the tenant moves out to determine what damage, if any, the tenant caused. Payment to fix such damage will be billed to the tenant or taken out of the security deposit. “Normal wear and tear” is not a reason for withholding security. Landlords and tenants are cautioned that often a judge in a disputed security deposit case may depreciate the value of a damaged item for which the security is withheld and award the depreciated value as opposed to the current replacement value of the damaged item. Torn carpeting and curtains are common examples of potentially depreciated items.

TERMINATION OF THE RENTAL AGREEMENT:

The rental agreement legally binds the tenant and the landlord. If the tenant moves out without properly terminating the rental agreement, he or she must still pay the rent. The tenant may have to pay rent until the lease expires or until the landlord can rent the property to another tenant. However, the landlord must make a “good faith” effort to find a new tenant. This is known as “mitigation of damages.” If the entire rental property becomes uninhabitable and the tenant moves out, the tenant does not have to pay rent until the landlord makes it livable again. In some situations, the rent may be reduced if the landlord does not comply with the terms of the rental agreement. These contingencies should be spelled out in the lease agreement.

There are many ways to terminate a rental agreement. Florida law states procedures for terminating rental agreements, and these procedures must be substantially followed.

Lease Expiration: Leases must state the date on which they terminate. If the lease has expired but the tenant is still allowed to live at the rental property and is paying rent, the rental period becomes the period for which rent is due. For example, if rent is paid monthly, the landlord and “holdover tenant” will be deemed to have entered into a month-to-month lease agreement. This

means that if you remain on the premises even 1 day after the rental period ends, the landlord may hold you liable for an entire month's rent. For this reason, it is important to notify your landlord in advance if you will not be able to vacate the premises by the expiration of the lease. You should try to work out a written agreement detailing how long after the expiration of the lease you intend to stay and what rent you will be responsible for. Your landlord may agree to let you pay for only the time you actually spend on the premises.

Voluntary Termination: If the duration of the tenancy is month-to-month, either party must give at least 15 days notice prior to the end of the month that he or she wants to terminate the rental agreement. If the tenancy is week-to-week, either must give at least 7 days notice prior to the end of a weekly period.

Noncompliance: The landlord and the tenant have many responsibilities to each other. They both must comply with the terms of the lease and with Florida law. For instance, the landlord must keep the rental property in compliance with building codes, and the tenant must not damage the property and must not unreasonably disturb the neighbors. If either the landlord or the tenant is not complying with these rights and responsibilities, the rental agreement can be terminated.

- If the landlord is in noncompliance, the tenant must give the landlord 7 days written notice. This notice must state what the noncompliance is and indicate that the tenant will terminate the rental agreement in 7 days if the landlord does not come back into compliance with the lease or Florida law (or "cure" the noncompliance).
- If the tenant is in noncompliance, the landlord must give the tenant a similar written notice. However, this written notice must substantially follow the format required by Florida law.

RETURN OF SECURITY DEPOSIT:

Florida law sets out specific time limits for giving the security deposit back to the tenant after the tenant moves out.

Unless the lease says otherwise, the tenant must give the landlord written notice by certified mail or personal delivery to the landlord prior to moving from the premises. This notice must include the address where the tenant may be reached. This notice must be provided in addition to any notice of termination of the lease.

After the tenant moves out of the rental property, the landlord must return the security deposit within 15 days. If the landlord wants to withhold part of the security deposit, he or she must give written notice by certified mail to the tenant's last known mailing address within 30 days after the tenant moves out. This notice must substantially comply with Florida law.

If the landlord fails to give written notice of an intention to withhold part of the security deposit, he or she loses the right to withhold any amount of it. However, if the tenant failed to give the proper certified mail or personal delivery notice that he or she was moving out of the rental

property, the landlord does not have to give the tenant the required written notice.

The tenant has 15 days to object to the landlord's intent to withhold part of the security deposit. If the tenant does not object, the landlord may take that part out of the security deposit. The landlord must return the balance of the security deposit within 30 days after the date of the landlord's notice to withhold part of the security deposit.

If the landlord and tenant do not agree as to how much of the security deposit the landlord may keep, either party can sue the other. The winning party is entitled to court costs plus a reasonable fee for an attorney.

CONCLUSION

This handout may be able to answer some or all of your questions about Florida landlord/tenant law. However, it is not a replacement for legal advice. If you have any further questions or need legal advice, the base legal office offers legal assistance to eligible members of the Tyndall community. If you have questions concerning a lease agreement, be sure to visit the legal office prior to signing the agreement. Once you sign a lease, you are contractually bound by the agreement unless the lease contains clauses that are contrary to Florida law.