

How Can I Help Them, Lord?

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Renter's Rights & Responsibilities

A. Rental Agreements/Leases: provides you and the landlord with the ground rules that must be followed when renting.

There are two kinds of Rental Agreements:

- ✓ Oral Agreement: It may seem quick, easy and best to simply talk to your Landlord and hand over some money for a deposit, but remember...things change and memories differ. In order to protect yourself from disagreements with your landlord, it is much better to get a written agreement so that the two of you completely understand what is expected of one another.
- ✓ Written Agreement: this type of agreement puts your words in writing where you can refer to it and use it to protect your rights. Most rental agreements are on a month to month basis.
 - Month to month agreements do not guarantee that you can stay for an indefinite period of time. In other words, either you or the landlord can decide at any time that you will not be living there once the month is over.
 - Always give your landlord a 30 day written notice before leaving on your own will.
 - Should the landlord need to make a change in your rental agreement, he/she must notify you of any changes within 15 days before the change can become effective unless it is stated in the agreement otherwise.
 - If you do not understand any part of the rental agreement, ask the Landlord to explain it to you. If you understand his explanation, ask him to write that part of the agreement in simpler words so you can refer back to it at a later date if you need to.
 - If you understand everything in the rental agreement, but don't agree with certain parts of it, do not sign it. Explain to the Landlord what you do not agree with and try to negotiate to make the agreement more acceptable to how you feel you can live. Only sign the rental agreement if you feel you can agree to all of its terms.
 - With a month to month rental agreement, you can be evicted either with cause or without cause.
 - Don't forget to read the proposed agreement before you sign it! Find out what it really says.

There are two kinds of Lease Agreements:

1. Oral Agreement: It may seem quick, easy and best to simply talk to your Landlord, hand some money over for a deposit and shake hands when all is done with, but remember...things change and memories differ. In order to protect yourself from disagreements with your landlord, it is much better to get a written agreement so that the two of you completely understand what is expected of one another.

2. **Written Agreement:** A lease usually states you will be a tenant for a specific period of time with a monthly price set at a certain dollar amount. The rent usually remains at the same price for the period of the lease unless it is written into the lease that the monthly rate will go up under certain specific circumstances. **(BE SURE TO READ YOUR LEASE BEFORE SIGNING!)**

- During the term of the lease, the landlord cannot force you to accept any changes other than ones already written into the agreement. For example, some leases contain a statement that allows the Landlord to increase the amount of rent to be paid if the operating costs increase. If the lease you sign does not contain a statement like the example given, then the landlord cannot increase your rent until your lease ends.
- A lease may be good for 6 months, a year, or a number of years and may or may not contain an automatic renewal clause.
- If the landlord or you decide not to renew the lease, a 30 day written notice must be given to the other before the current lease expires.
- A lease can make you stay in a place longer than you want to because if you move before your lease is up, you will have to keep paying the rent until the landlord re-rents the place. On the other hand, the lease can protect your right to stay in the rental if the landlord wants you to move before the lease expires. The only way you can be forced to move is if the lease states your rights are waived to remain in the rental if a certain thing occurs (such as the death of the landlord or sale of the property) or when you violate one or more terms of the lease agreement.
- The death of either the landlord or you does not dissolve the lease agreement unless specifically stated. The lease is continued and all respective heirs are bound by the contract.
- The sale of property does not terminate the terms of a lease unless it is specifically stated in the agreement that it would end when a sale is completed.
- If you remain in the rental after the lease expires and there is no renewal clause, the lease will automatically continue on a month to month basis unless otherwise stated in the lease agreement. In this case, any change to the lease agreement can only be made with the landlord sending you a written notice within 10 days before the next month's rent is due.

B. Before you sign a lease or rental agreement, make sure it includes the following information:

- ✓ Names, addresses, & phone numbers of both you and landlord/manager.
- ✓ Location of the property you are going to rent.
- ✓ Amount of rent agreed upon and how, when, where to pay.
- ✓ Persons responsible for each utility bill (electric, water, gas).
- ✓ A statement that notices are to be given in writing and where to send them.
- ✓ Name and phone numbers of whom to contact for repairs.
- ✓ Description of the premises before you rent and a list of furnishings, if any, that are there.
- ✓ Reasons for any deposits that you pay and the conditions under which they will be returned to you.
- ✓ 24 hour notice if the landlord/manager wants to enter the unit, except in cases of emergency. (If the language in the lease reads that the landlord retains the right to enter the property at "reasonable times" to inspect or make repairs, make sure that you ask that it be replaced with a 24 hour notice clause in order to give you time to clean up if necessary.)

NOTE: You have the right not to sign a lease or a rental agreement if you do not fully agree with its terms. Of course, if you do not sign, the landlord may refuse to enter into a rental agreement with you. It is best that you ask that changes be made and if the landlord does not agree, do not rent from him.

C. Before you sign a lease or rental agreement, make sure it DOES NOT include:

- ✓ Outrageous late fees or other charges.
- ✓ Outrageous non-refundable deposits.
- ✓ Requirements for permission to have guests or for registering them.
- ✓ Permission for your landlord to keep your property if you fall behind on your rent.
- ✓ A clause that states that there will be an automatic deduction from the deposit to clean the property when you leave.

D. Security Deposits:

A deposit is money you give to your landlord when you move in to cover charges that occur once you move out for items that may have broken, are missing, or are dirtier than when you moved in. They may or may not be refundable...read your rental or lease agreement carefully to see if there is any statement that says you will not get it back when you move. To help protect your right to get your deposit back, you must give your landlord a written notice stating when you are moving out (must be given to the landlord 10 days before the end of the month that the rental agreement or lease expires). Be sure to keep a copy of the notice you wrote should you have to seek the services of a court to help you get your deposit back.

DO NOT PAY YOUR DEPOSIT IN CASH unless you deliver it personally and get a receipt. A receipt is your only proof that payment was made. A receipt should contain the following information:

- ✓ Date
- ✓ The amount paid and how it was applied (ex: Jan. rent plus late fee)
- ✓ Signature of the person accepting the rent (if the signature is illegible, the name and title of the person should be legibly printed underneath.)

Payment of your deposit with a check is the safest way to insure you have made your payment as receipts can easily get lost over time.

Your landlord can use your deposit to cover any unpaid rent. Under Louisiana Law, you may not use your security deposit to cover your last month's rent unless your landlord agrees and any such agreements must be in writing. Within 30 days after you have moved out, the landlord must provide you with either:

- The entire deposit if there were no damages or cleaning required, or
- A written itemized statement describing how the deposit was applied to back rent, cleaning or repairs, plus the remainder of the deposit if any.

Failure of a landlord to provide you with the above deposit refund or written itemized statement can result in the landlord paying a fine of \$200 plus the cost of any attorney's fees you may have if you should have to take the landlord to court to get your money back.

Your landlord cannot keep your security deposit for normal wear and tear repairs to the dwelling. Examples of normal wear and tear could be:

- ✓ A worn carpet.
- ✓ Chipped paint.
- ✓ Worn finish on a wood floor.
- ✓ Faded or dingy paint on the walls.

- ✓ Curtains faded by the sun.
- ✓ Water stained linoleum in the bathroom.
- ✓ Minor nicks or marks in the wall.
- ✓ Dents in the wall where a door handle bumped it.
- ✓ Moderate dirt or spotting on a carpet.
- ✓ A few small tack or nail holes in the wall.
- ✓ Worn gaskets on refrigerator doors.
- ✓ Warped cabinet doors that won't close.
- ✓ Stains on old porcelain fixtures that have lost their protective coating.
- ✓ Moderately dirty mini blinds.
- ✓ Bathroom mirrors beginning to have black spots on them.
- ✓ Clothes dryers that don't blow hot air because the thermostat went out.
- ✓ Toilet flushes inadequately because mineral deposits have clogged the jets.

Examples of how the landlord is allowed to keep all or a portion of the deposit can include:

- ✓ Cigarette burns in curtains or carpets.
- ✓ Broken floor tiles.
- ✓ Large marks or holes in the wall.
- ✓ Doors off their hinges.
- ✓ Rips in carpet or urine stains from pets.
- ✓ Lots of tack or nail holes in the walls that require patching and repainting.
- ✓ Stains in a carpet or rug due to a leaking fish tank or other pet.
- ✓ Broken refrigerator shelf.
- ✓ Water damage on walls due to hanging plants.
- ✓ Water stains on floors or window sills due to keeping windows open during rainstorms.
- ✓ Sticky cabinets.
- ✓ Grime coated bathtub, lavatory, and/or toilet.
- ✓ Missing mini blinds.
- ✓ Mirrors caked with lipstick and makeup.
- ✓ Dryer that won't turn on at all because it's been overloaded.
- ✓ Toilet that won't flush properly because it is stopped up with a diaper.
- ✓ Broken windows.
- ✓ Leaving trash or other items that have to be thrown away.
- ✓ Leaving the dwelling so dirty that it is unhealthy or unsafe.
- ✓ Failure to move out or return keys to the landlord at the end of the rental agreement.

If damages are discovered after you move out that cost above the amount of the deposit you had given to the landlord, you can be held responsible for payment of any additional costs of the repair bill.

If there is no clause in the lease which requires specific cleaning, you must return the property in the same condition in which it was rented. If you fail to do so, all or part of the deposit may be withheld.

If your landlord fails to return your deposit within the 30 day waiting period, you can sue the landlord in Small Claims Court. You do not need an attorney to file in Small Claims Court; you can file simply by going to the nearest Small Claims Court and asking the Clerk of Court to help you fill out the necessary papers. Be sure to ask the Clerk how to get your papers served to the landlord. The Clerk will tell you the date of your trial. If the papers are not served to the landlord, the trial will be postponed. If you are not represented by an attorney, try to watch a Small Claims Court in action before going up for your trial. Don't forget to bring any evidence or witnesses that can help you!

E. Use a move in checklist:

Before you move into a rental, be sure to do a walk through with the owner or property manager. Why? Because when you move out, the landlord may attempt to charge you for “damages” that were in existence when you moved in. What defines “damages” in court is often contested and unless you have a move-in checklist with pictures detailing what the rental was like when you moved in, you may lose out in court.

Always go through the rental, take pictures and write down a list of all furnishings, the condition of the furnishings, walls, carpets, appliances, bathroom fixtures, etc, before you agree to rent. Have the landlord sign the list and make sure you both keep a copy of the signed document. That way, when it is time for you to move out, you will be able to ensure that you leave the place as clean and in as good condition as when you moved in.

F. Things to look for before moving in:

- ✓ Cracks or holes in the floor, walls, or ceilings.
- ✓ Signs of leaking water or water damage in the floor, walls, or ceiling.
- ✓ Leaking in bathroom or kitchen fixtures.
- ✓ Any signs of mold or pests.
- ✓ Lack of hot water.
- ✓ Inadequate heating or air conditioning.
- ✓ Damaged flooring.

G. Preventing Problems in Paying Rent:

1. Do not pay your rent in cash unless you pay it in person and get a receipt signed by your landlord or manager. Hold on to that receipt since it will be your only proof of payment!
2. Do not pay your rent with a money order unless you pay it in person and get a receipt signed by your landlord or manager. If a money order is lost in the mail, it will take a long time to trace. In the meantime, the landlord will want his money that is legitimately due to him. This can result in your making two rental payments for the same month or cause you to get evicted due to non payment of rent. A money order stub or duplicate is not a receipt...it does not prove you paid your rent, only that you purchased a money order.
3. Payment of rent by check gives you an automatic receipt when the landlord cashes it. Until the check is cashed, you do not have any proof of payment. You can stop payment of a check if it gets lost in the mail. Always write in the memo section of the check what the month rental payment the check is for to avoid confusion later.
4. All receipts given to you for payment of your rent or security deposit should include:
 - ✓ Date paid
 - ✓ Amount paid
 - ✓ How the amount was applied (January rent plus late fee, etc.)
 - ✓ The signature of the person accepting the payment. If the signature is not legitimate, ask the landlord to print their name underneath their signature.
5. A landlord generally does not have to accept late rent payments unless it is paid within a grace period or otherwise stipulated in the rental/lease agreement. Note: If the landlord has a habit of accepting late rental payments and there is no clause in the rental/lease agreement that waives his right to do so while still keeping the original date the rent is due, you may have a defense when you go to court in the case you are ever served with an eviction notice.

6. If you are away from home for an extended period of time, let the landlord know ahead of time where you are going. If you don't, and you do not pay all of your rent within 15 days it is due, the landlord may assume that you have abandoned your home. At that point, he can legally enter your home and place all of your furniture and personal belongings in storage where you will then be responsible for paying storage fees and moving costs.

H. Preventing Problems with Roomates:

Any roommate should sign the same rental agreement you do. Be careful whom you choose to move in with since both of you are each individually responsible for paying the entire rent, even if your roommate fails to pay his/her share.

If both of you sign a lease agreement, be aware that any damages caused by either one of you can leave the other responsible for the payment of those damages.

You must notify the landlord when any roommate or family member listed on your rental agreement moves out or moves in.

If you wish to have a new roommate, the landlord will probably require that you receive his/her permission prior to moving in and require them to complete an application and rental agreement.

I. Modifications to Rental Unit if You Are Disabled:

You have the right to make reasonable modifications to the rental property at your own expense to accommodate your disability. You must restore the property to its pre-existing condition when you leave if the modifications will present a problem for the landlord or the next tenant. The landlord does not have absolute right to reject modifications but may state certain conditions of approval or disapproval of modifications on the lease/rental agreement.

J. Loss of use of dwelling due to storm, fire, or other hazard:

If your rental home is damaged by a storm, a fire, or a robbery attempt, tell your landlord right away. You cannot be charged for repairs for damages that you, your family members or guests did not do. In the case of damages due to a robbery attempt, it is good to get a police report to back up your claims of how the damage occurred.

If the place you are renting is damaged to the extent it is unsafe or unfit to live in, you are not required to continue to pay rent. Your landlord must repair the rental premises as quickly as is reasonably possible. You must cooperate with the landlord's requests to move your personal belongings while repairs are being made. If you have a written lease agreement and wish to back out of it because of the damage, you must send the landlord a written request that the lease be canceled within 10 days after the damage occurred, otherwise you are bound to the stipulations of the lease agreement.

K. What Can Be Done If The Landlord Won't Make Repairs:

1. Check your lease or rental agreement to first see if it is the landlord's responsibility to make the repairs. Sometimes, agreements will have a clause in them that state you are renting the home "as is". That statement means that any repairs become your responsibility to fix.

2. If there is nothing in the lease agreement that states you are responsible for the repairs, try to resolve the issue yourself first by sending a letter to the landlord listing all of the repairs that need to be made to make the home safe and habitable to live in. Keep a copy of the letter you send to the landlord as you will need it for future reference if the issue does not get resolved through your communications.
3. If the landlord does not comply with your request, you can file a complaint with the Attorney General's Consumer Protection Section: 1-800-351-4889 or get a complaint form over the internet: www.ag.state.la.us (click on consumer complaints). They will assist you by contacting the landlord in writing about your complaint and resolving the issue from there. If they are unable to resolve the issue you can go on to step 3.
4. **If you have followed the first two steps** and repairs still haven't been resolved, Louisiana Law states that you can pay for the costs and then deduct those costs from rent that is due.

*****Note that only repairs that make the home unsafe (such as electrical problems or back doors that don't close properly) or cause you undue expense (such as leaking faucets) apply to this law.**

▪ **DO NOT AUTOMATICALLY DEDUCT THE REPAIR COSTS FROM YOUR RENT IF YOU CANNOT PROVE ALL OF THE ITEMS STATED BELOW TO THE COURT SHOULD THE LANDLORD TAKE YOU TO COURT FOR THE PAYMENT OF THE RENT.**

- ✓ The repairs **MUST** be those that the landlord was obligated to make;
 - ✓ You **MUST** have sent the landlord a written statement of the repairs that need to be made;
 - ✓ The landlord **MUST** have refused or failed to make the repairs after having received your written notice and demand;
 - ✓ The deduction of the cost of the repair **MUST** be from rent that is currently due,
 - ✓ You **MUST** provide proof that the repairs were necessary and essential;
 - ✓ You **MUST** provide proof that the price you will pay for the repairs are just and reasonable.
- **You should keep copies of estimates, letters, receipts and other documents to support your case in court.**
- A landlord cannot evict you because you asked for repairs to be made. If you are threatened with eviction due to this reason, be sure to tell the judge presiding over your eviction proceedings what is taking place. Be sure to have pictures with you showing the problems in the home to help prove to the court what you have had to deal with.

L. Renter's Insurance:

The landlord's insurance will not cover your personal belongings in the case of a fire, flood or other natural disaster or even theft. Renter's insurance is one of the cheapest types of insurance out there...only about \$15 - \$25 per month for a basic policy. This insurance would not only protect your belongings, but also your personal finances if someone you know visits your home and is hurt due to something you had control over (such as becoming injured after tripping over a hose you left out).

M. Evictions:

You have the right to remain in the place you rent until you are legally evicted by court order or until your lease expires. Landlords do not have the right to lock you out of your home or take your property. Only a sheriff or a constable following a court order can evict you. If the landlord tries to evict you without a court judgment, the police should be able to help you.

Reasons for Evictions can include:

1. No cause or reason (on month to month agreements only). The landlord must give you 10 days notice in writing before the rent is due in order for the eviction to be legal.
2. You abandon the property without letting the landlord know you were leaving and the date the rent was due has passed.
3. Violations to lease agreement. Examples of such violations can include:
 - ✓ Actions (behavior or property damage) not agreeable to landlord caused by guests or tenants.
 - ✓ Letting a friend or relative move in without permission of the landlord.
 - ✓ Having a pet when the landlord stated no pets were allowed.
 - ✓ Non payment of rent.

Evictions are serious court related business. A renter can be evicted any time of the year, even on the coldest winter day. If a person loses their eviction case in court, they have to move out within 24 hours.

Eviction Process:

1. Notice to Quit: The first notice you will receive is a written notice to quit indicating why you are being asked to vacate the premises. It is usually given to you by the landlord or a member of the sheriff's department. It indicates that the landlord plans to file a lawsuit for your eviction if you don't move out by the end of the notice period. You have up to 5 days to voluntarily move out before the next step of the eviction occurs (10 days if it was a lease agreement). Some rental/lease agreements waive this first notice and can proceed directly on to the second step of eviction proceedings.
2. Rule to Show Cause: these are the court papers delivered by the Sheriff's Office or Justice of the Peace that tell you that your landlord has filed a court order asking the court or Justice of the Peace to have you evicted from the property. The Rule to Show Cause should tell you the date, time and place of the hearing before the judge or Justice of the Peace and the reasons why the landlord is asking that you be evicted from his property. If you want to fight the eviction, you have 3 days after you are served the papers to inform the court or Justice of the Peace that you will contest the eviction.
3. Judgment of Eviction: is provided at the court proceedings. It should always be provided to you in written as well as verbal form.
4. Execution of Judgment: the tenant must vacate the property within 24 hours of the signing of the written judgment (exclusive of Saturdays, Sundays and Holidays). At this point, the Justice of the Peace or the court can ask the Sheriff to come in and take all of your personal property. If any doors or windows need to be broken to get into the premises or if damages occur to the premises as a result of the removal of personal property, you will be held responsible for the payment of those damages.

5. A landlord may file a separate suit to collect past due rent and may seize personal items such as furniture or appliances that is found in the rental property by getting a court order to do so without posting bond or other security.

NOTE: A landlord cannot legally evict a tenant if he does not follow the above procedures. Should the landlord lock you out of your house, seize your personal property or place your belongings on the street without court authorization to do so, you can sue the landlord for your damages.

NOTICE: Legal information is not the same as legal advice. Although we go to great lengths to make sure the information in this newsletter is accurate and useful, we recommend you consult an attorney if you want professional assurance that our information and your interpretation of it is appropriate to your particular situation.