

MISSOURI LANDLORD AND TENANT LAW:

Mid-Missouri Legal Services' Tenant's Information Packet

Introduction

This guide is intended to provide some general information on how to deal with some common problems that face tenants from time to time. This guide is not intended to be an answer to every question, nor is it intended to be specific legal advice for a specific case. When a tenant decides to try and break a lease early, or faces an eviction action in court, it is almost always a good idea to get legal advice from a licensed attorney. It is almost always a good idea to get advice from a friend or relative who is willing to give free advice based on their experience. Many times a well-meaning friend or relative has given advice, which simply lands the tenant in more legal hot water.

The relationship between a landlord and tenant is governed by certain legal rules, which both the landlord and tenant should know and understand. Before the tenant can understand his or her rights and responsibilities the tenant needs to understand what certain words mean.

Some Important Words and Their Meanings

- Oral: Spoken, not written
- Lease: An agreement between the owner of the property and person who wishes to use the property which allows the tenant to possess the property, usually in exchange for the payment of rent. A lease can be either written or oral. A lease is a legally binding contract, which can be enforced by a court of law.
- Landlord: The owner of the property. . Tenant - The person who rents the property from the landlord.
- Month-to-Month Lease: A month-to-month lease is an agreement between the landlord and the tenant where the tenant is given possession of the property for a month at a time.
- Lease For a Definite Term: A lease for a definite term is a lease which the landlord and the tenant agree to allow the tenant to possess the property for a certain time period, for example 6 months or one year.
- Eviction: The process by which a landlord can legally force a tenant out of the property before the end of the lease.
- Security Deposit: A sum of money paid by the tenant to the landlord upon move in as security for the landlord for the payment of any damages to the property caused by the tenant or any unpaid rent due upon the ending of the tenancy. This does not include an amount paid for a pet deposit.

Before You Move In

Many landlord and tenant problems can be avoided if the landlord and the tenant have a clear understanding of the rights and responsibilities of the landlord and tenant before the tenant moves in. Where the agreement between the landlord and the tenant is clear then there are usually few problems. When the agreement becomes unclear, or when the landlord or the tenant, or both, do not follow the agreement, then serious problems can come up. The agreement between the landlord and the tenant is called a lease. A lease can be oral or in writing. The advantage of a written lease is that if a problem

comes up later the landlord, tenant or a court can read the lease and know what the agreement was. If there was no written lease then the lease is known as an oral lease. When you decide to rent you need to decide if you want a written or oral lease and whether you want a month-to-month lease or if you want a lease for a definite term.

A month-to-month lease has some advantages and some disadvantages. A month-to-month lease can be ended by either the tenant or the landlord upon 30 days notice. This means that if the tenant knows that he or she will need to move on a short notice then it is relatively easy to end the lease. The disadvantage is that if the landlord wants to end the lease early then the landlord can also end the tenancy with proper 30 days notice.

A lease for a definite term also has advantages and disadvantages. The lease protects both the landlord and the tenant because both of them know that the tenant will have possession for a definite time period. The landlord is locked into a certain amount of rent for a certain period of time and the tenant is protected from early eviction or increase in rent unless the tenant does something wrong which allows the landlord to evict the tenant early. The disadvantage from the tenant's point of view is that the tenant is also locked into the tenancy for a certain period of time. If the tenant has to leave early then the tenant may be legally liable to the landlord for damages for lost rent and the expenses of re-renting the property.

The landlord has the legal right to charge the tenant a security deposit. This is an amount of money paid by the tenant to the landlord and held by the landlord as security for the payment of any damages or unpaid rent which may be due when the tenant moves out. The landlord may also require the payment of an additional deposit if the tenant wants to keep pets on the property. Under the law the amount of the security deposit cannot be more than two months rent. If the tenant's rent is \$200.00 per months, therefore, the landlord cannot charge more than a \$400.00 security deposit. If the tenant damages the property, the landlord is not limited by the amount of the security deposit if the landlord files a lawsuit for damages in court. If the tenant has paid a \$400 deposit but has caused \$800 in damages the landlord can sue the tenant for the full \$800, minus the amount of the deposit. It is also important to remember that the payment of a security deposit does **not** allow the tenant to deduct the last month's rent from the security deposit and not pay the last month's rent. Unless the landlord and the tenant agree otherwise, the tenant must pay the last month's rent and then get a refund of the security deposit.

The lease between the landlord and the tenant needs to include certain things. The following is a list of the things which need to be agreed to:

- What property is being rented.
- Whether the lease is going to month-to-month or if it is going to be a lease for a definite term.
- The amount of rent due.
- The date the rent payments will be due.
- Where and how the rental payments will be paid.
- Additional fee for late rental payments.
- Who will be living on the property.
- What appliances will be furnished with the property.
- What will you be allowed to use and under what conditions. In housing complexes, for example, the landlord can set rules and regulations for the use of laundry facilities, swimming pools, etc.

- The amount of any deposit to be paid.
- Who will pay for utilities.
- What repairs the landlord will be responsible for and what repairs and maintenance the tenant will be responsible for.
- Whether the landlord will allow any pets on the property.

Before the tenant moves in the tenant should also carefully inspect the property for any problems. It is usually a good idea to do a written move in inspection checklist. You should go through the property, room by room, and make a careful record of any and all problems with the property. Things the tenant should list are items like: spots on walls and carpets, holes in walls, the condition of all appliances. If the landlord promises that certain items will be fixed before the tenant moves in or shortly thereafter. This should be agreed to in writing as part of the lease or, at a minimum, they should be noted in the move in inspection checklist. You should review the checklist with the landlord and keep it with your other important papers.

Some Important Duties of the Tenant

The law imposes certain legal duties on tenants. If the tenant fails to comply with these duties then the tenant may be subject to eviction by the landlord or legal liability for damages, or both. These duties can sometimes be changed by agreement between the landlord and tenant. Any changes in the duties, however, should be clearly agreed to and should be put in writing. These duties include, but are not limited to, the following:

- The tenant must pay the full rent owed on time. In many cases the failure of the landlord to make repairs does not allow the tenant to refuse to pay the rent. There are some circumstances when the tenant does have the legal right to withhold the rent, but the tenant should not consider withholding rent until after he or she gets legal advice from a licensed attorney at law. The wrongful failure of the tenant to pay rent may subject the tenant to a lawsuit for eviction and damages.
- The tenant must keep the property clean. The tenant must properly dispose of all garbage, both in the home and any garbage that the tenant is responsible for outside.
- The tenant may not damage or destroy the landlord's property. The tenant will be liable to the landlord for damages to the property.
- The tenant may not make structural or other changes to the property without the landlord's permission.
- To peacefully occupy the property and not to disturb the peace of the neighbors. This is especially true in the rental of an apartment or unit in a housing complex where the landlord owns the homes or apartments next door. This means that it is not proper for the tenant to use the property for illegal purposes such as illegal drug use or to play loud music or to engage in conduct, which would disturb the neighbors.
- The tenant may be responsible to pay for damages that the tenant or the tenant's guests cause to the property.
- The tenant must make certain that water and wind do not enter and damage the house.

- The tenant must notify the landlord within a reasonable time of any damage to the property so that the landlord has the opportunity to make repairs.
- A landlord and tenant can agree that the tenant has the legal duty to make repairs to the property.

Some Important Duties of the Landlord

The law imposes certain legal duties on landlords. If the landlord fails to comply with these duties then the landlord may be liable to the tenant in an action in court for damages and, in certain serious cases, the tenant may be legally allowed to terminate the lease and move out early. These duties may be changed by agreement between the landlord and the tenant. Any changes in these duties, however, should be put in writing. These duties include, but are not limited to, the following:

- The landlord must allow the tenant to enjoy the peaceful possession of the property.
- The law requires that a landlord guarantee to the tenant that the rented premises are reasonably habitable.
- The landlord must maintain the property and appliances furnished by the landlord in substantial compliance with applicable housing and building codes.
- In apartment buildings and housing complexes the landlord must keep the common areas safe, secure and in compliance with applicable housing and building codes.
- The landlord may not turn off water, electricity, gas or telephone service except in an emergency (such as repairing a leak). The landlord may not lock out a tenant except under certain limited circumstances. A landlord cannot evict a tenant without a court order.
- The landlord may not raise the rent during the term of the lease. In the case of a month-to-month tenancy, the landlord may not raise the rent without giving 30 days notice.

If the landlord does not comply with his or her obligations the tenant may have certain rights. Under most circumstances the tenant may not terminate the tenancy if the landlord fails to make minor repairs. If the landlord fails to make repairs to items which put the health or safety of the tenant at risk then the landlord may have the legal right to move out and terminate the tenancy.

What Should a Tenant Do to Get the Landlord to Make Repairs?

One of the most frequent causes of problems between landlords and tenants is the landlord's failure to make repairs. In most cases the failure of the landlord to make repairs does not legally allow the tenant to withhold rent or to move out without proper notice. There are two different kinds of situations where the landlord fails to make repairs. The first is where the landlord has failed to make minor repairs and the second is when the landlord has failed to repair a problem, which may endanger the health or safety of the tenant.

Minor repairs. In general, minor repairs are repairs which are necessary to make the property useable, but which do not have an immediate impact on the health or safety of the tenant. Minor repairs could be things like changing a light bulb in a common area, repainting a room, minor cockroach problems, fixing an inside door, fixing a washing machine or replacing a window screen. If a minor problem comes up the tenant should notify the landlord right away and give the landlord a reasonable time to fix-the problem.

The tenant should write down the date the landlord was notified of the problem. If the landlord does not fix the problem then the tenant should send a polite letter to the landlord, reminding the landlord of the problem and asking the landlord to take care of the problem. The tenant should send the letter certified mail, return receipt requested and keep a copy of both the letter and the receipt. The following is a sample letter which a tenant may use.

[Tenant's Name]
[Tenant's Address}
[City, State, Zip]

[Date]

[Landlord's Name]
[Landlord's Address]
[City, State Zip]

Ref: Request for Repairs

Dear [Landlord's Name]:

I would like to remind you that on or about [date tenant notified landlord of the problem] I notified you that [describe the problem which needs repair]. I would like to again request that you take care of the problem within the next 10 days. The delay in getting the problem repaired is causing me some inconvenience and I would like it to be taken care of.

Thank you for your prompt attention to this matter.

Sincerely,

[Tenant's Name]

There are two reasons to send a letter. The first reason is to remind the landlord that the problem needs to be fixed. The second reason is to create a record that the tenant brought the problem to the landlord's attention. If there are problems - between the landlord and the tenant about the problem then the tenant can show the court a copy of the letter and the return receipt to show that the problem was brought to the landlord's attention but it was not fixed. If the landlord does not make the minor repairs even after getting the letter from the tenant then the tenant should consider getting advice from a lawyer on what to do next.

Major Repairs. Sometimes things go wrong with a house or apartment which place the health or safety of the tenant at risk, or make the home uninhabitable. Some examples of these problems are: broken furnace causing no heat when it is cold outside, a blocked furnace or gas hot water chimney, broken plumbing or sewer systems which make the bathrooms unusable, holes in the floors and exterior walls causing a dangerous situation, gas leaks, defective electrical systems which cause a fire hazard, serious flood damage, serious cockroach or vermin infestations, major leaks in the ceiling causing serious water damage or fire risks. Gas leaks and other immediate hazards should obviously be reported to the gas company or fire department at once. These problems should also be reported to the landlord immediately.

The landlord does not take action right away to fix the problem the tenant should write a letter to the landlord. If the tenant is living in a city or county with a city or county building inspector or health department the tenant should also report to the problem and ask for the property to be inspected. The following is a sample letter the tenant may use to write to the landlord about a serious problem which the landlord is not fixing and which has an immediate and major impact on the tenant's health and safety.

[Tenant's Name]
[Tenant's Address]
[City, State, Zip]

(Date)

[Landlord's Name]
[Landlord's Address]
[City, state Zip]

Ref: Request for Repairs

Dear [Landlord's Name]:

I would like to remind you that on or about [date tenant notified landlord of the problem] I notified you that [describe the problem which needs repair]. The problem is very serious and it is materially affecting my quiet enjoyment of the premises and is endangering my health and safety. In the event that this problem is not taken care of immediately I will need to consider declaring the failure to repair a breach of the lease agreement, a breach of the implied warranty of habitability and a constructive eviction from the premises. If this is necessary I will be moving out on [date] and I will take appropriate action to seek compensation in court for any damages which I may have incurred.

I would like to again request that you take care of the problem immediately. The delay in getting the problem repaired is causing me major inconvenience. I sincerely hope that I will not be required to terminate the tenancy and seek damages against you.

Thank you for your prompt attention to this matter.

Sincerely,
[Tenant's Name]

Threatening to terminate a tenancy or threatening to sue a landlord for damages has serious legal consequences. If the problem is this serious then the tenant should get legal advice from a licensed attorney before threatening to terminate the tenancy and move out. The tenant should not threaten to move out unless the tenant actually means business. If the tenant threatens to move out and the landlord calls the tenant's bluff then the tenant may be forced to move.

If the situation is immediately life threatening, such as a gas leak, blocked gas heater chimney or imminent fire hazard then the tenant may be justified in temporarily leaving the premises. In this case the landlord may be liable to the tenant, under certain circumstances, for the tenants damages. These damages can include reasonable hotel bills and other expenses incurred by die tenant as a result *of* the problem.

In Missouri a tenant can pay for some repairs and deduct the repairs from the rent, but only in certain, limited cases. This can be done only if the tenant provides prior written notice to the landlord and only if:

- the condition *of* the home detrimentally affects the habitability, sanitation or security *of* the home; AND
- the condition constitutes a violation *of* a local municipal housing or building code; AND
- the reasonable cost to correct the condition is less than \$300.00, or one- half *of* the rental amount, whichever is greater; AND

- in no event can the cost *of* repairs exceed one month's rent.

The tenant cannot legally deduct the cost *of* repairs from the rent if the property was damaged by the tenant, the tenant's family or other person on the premises with the tenant's consent. The tenant can only deduct the cost *of* repairs if the above conditions are met and the tenant strictly follows certain procedures which are set out in the law.

If the tenant wants to make repairs and deduct them from the rent under this law, then the tenant must send a letter to the landlord, notifying the landlord *of* the problem and giving the landlord 14 days to fix the problem. The tenant should always keep a copy *of* the letter and should mail the letter certified mail, return receipt requested. The tenant should also immediately report the problem to the local housing or building code enforcement agency and have the home inspected. The tenant should ask for a copy *of* the inspection report. Under certain emergency circumstances the time for repairs can be less, but the tenant should talk to a lawyer about this. In order to deduct the rent the tenant must cause the work to be done in a workman like manner and must give to the landlord an itemized, written statement and receipts before deducting the cost from the rent. If the landlord gives the tenant written objections to the need for the repairs then the tenant may not deduct the cost of the repair from the rent without getting a written certificate that the problem is a violation of the local building or housing code from the local government.

The tenant's right to deduct the cost of repairs from the rent is strictly limited by law in Missouri and the tenant must follow certain procedures. It is therefore a very good idea for the tenant to talk to a lawyer and get some legal advice before doing this.

When can a Landlord Terminate a Tenancy?

The landlord has a legal right to terminate a tenancy under certain circumstances. The following is a list of some of the circumstances when a landlord may be legally able to terminate a tenancy and evict the tenant.

- At the end of the lease term the landlord is entitled to the return of the possession of the property.
- If the tenant does not pay the full amount of rent due the landlord has the legal right to evict the tenant.
- When the tenant damages the landlord's property the landlord may evict the tenant.
- When the tenant violates a requirement of a written lease the landlord may evict the tenant.
- The landlord may terminate a month-to-month lease on one month's written notice.
- The landlord may terminate the tenancy and evict the tenant if the tenant or other person on the premises uses the premises for illegal drug activities, illegal gaming or prostitution.

A word about illegal drugs in or around rented property. Starting in 1997 there are tough new laws that crack down on tenants who use their homes for illegal drug activities. If a tenant allows the use, possession, sale or distribution of any illegal drugs on the rental property then the tenant's lease is automatically terminated and the landlord can evict the tenant. The prosecuting attorney can also file in Court asking the court to order a tenant to be evicted for illegal drug activity. The law also allows a Court to order that a tenant, a member of a tenant's family or a tenant's guest to be immediately evicted or excluded from the landlord's property if that person engages in any of the following:

- Drug-related criminal activity has occurred on or within the property; or

- The property was used in any way to further, promote, aid or assist in drug-related criminal activity; or
- The tenant, a member of the tenant's household or guest has engaged in drug-related criminal activity either within, on or in the immediate vicinity of the leased property; or
- The tenant has given permission to or invited someone to come on the property who had been previously removed from the property.
- An emergency which would cause physical injury to other tenants or the landlord; or
- An emergency which would cause damage to the rented property in an amount equal to 12 months rent.

There are some cases where the tenant is protected from eviction even if these illegal activities are taking place. Some examples of this are when the tenant is reasonably not aware of the activities, or when the tenant has not been able to stop the activity due to threats. If this is going on, however, the tenant should get legal advice right away, or face possible eviction. *The bottom line is that if the tenant allows any use, possession, sale or distribution of any illegal drugs in, on or around the rented property by the tenant, any household member or a guest then the tenant runs the risk of being legally evicted.*

When Can A Tenant Terminate a Tenancy?

A tenant has a legal right to terminate a tenancy under certain circumstances. The following is a list of some of the circumstances when a tenant may be legally able to terminate a tenancy.

- At the end of the lease term the tenant must return possession of the property to the landlord in substantially the same condition it was rented in, reasonable wear and tear excepted.
- When the landlord breaches the landlord's warranty that the property is habitable and the property is no longer reasonably habitable. The conditions which make the property uninhabitable can vary, but the tenant should get legal advice before the tenant moves out or refuses to pay rent for this reason.
- A tenant can terminate a month-to-month tenancy on one month's written notice.

There are some rules which a month-to-month tenant needs to follow if the tenant wants to end a month-to-month tenancy. The tenant must give proper notice of the tenant's intention to end the tenancy. The notice must be given at least 30 days prior to the date the tenant plans to move out. The notice must also take effect at the end of the next rental month. Example:

- **Proper notice.** Tenant's rent is due on the first day of each month. Tenant wants to end the lease by July 1. The Tenant must give notice to be received by the landlord on or before June 1st to end the lease on June 30th. The lease will then end on June 30th.
- **Improper Notice.** Tenant's rent is due on the first day of each month. Tenant wants to end the lease by July 15th. The tenant cannot give 30 days notice to terminate the lease by delivering notice to the landlord on or before June 15th.

The Tenant must give notice to be received by the landlord on or before June 1st to end the lease on June 30th or give notice on or before July 1st to end the lease on July 31st. The if the tenant actually leaves on July 15th the tenant will be responsible for the payment of the rent for the full month of July unless otherwise agreed between the landlord and tenant.

The notice should be in writing and the tenant should keep a copy of the notice. The notice should be sent certified mail, return receipt requested and the tenant should keep the receipt. The following is a sample letter which the tenant can use to terminate a month-to-month tenancy:

[Tenant's Name]
[Tenant's Address]
[City, State Zip]

[Date letter sent]

[Landlord's Name] [Landlord's Address] (City, state Zip)

Dear [Landlord's Name]:

You are hereby notified that I am ending my month-to-month lease of your property at [address] effective on [last day of the next rental period]. Please let me know where and when to return the keys. [My new address will be: [Tenant's new Address] Thank you for your cooperation.

Sincerely,

[Your name]

This letter can also be combined with the letter asking for the return of security deposits if the tenant has paid a security deposit.

Can a Tenant Sublease the Home?

Sometimes a tenant may want to move out of the house and get someone else to move in to take over the place. A tenant can only sublease a home with the landlord's permission. If a tenant subleases the home without the landlord's permission then the landlord can sue the tenant for the amount of the rent due plus damages not exceeding double the rent amount due.

Landlord Holding Property of Tenant After the Tenant Leaves the Property

When the tenant leaves the property at the end of the lease it is very important to notify the landlord of the date that the tenant moves out. The move out date should be the date that the tenant and all of the tenant's things will be removed from the property. If the tenant leaves property behind then the tenant risks losing the property to the landlord if the tenant is not careful.

A landlord has the legal right to remove and dispose of any belongings which a tenant leaves behind if the tenant has abandoned the property. The law says that a tenant has abandoned the property if:

- The landlord reasonably believes that the tenant has left the premises and the tenant does not intend to come back; and
- The rent is due and has not been paid for 30 days; and
- The landlord posts a notice on the premises and sends a letter to the last known address of the tenant that the landlord believes that the property has been abandoned. The notice must include certain things, such as telling the tenant that the tenant has 10 days to write to the landlord and tell the landlord why the place has not been abandoned. The notice also must include the address of the landlord.

- If the tenant does not either pay the rent due or send a letter to the landlord within 10 days of the notice then the landlord can legally dispose of the tenant's property.

Return of Security Deposits

One of the biggest sources of problems between landlords and tenants at the end of a tenancy is the return of the security deposit. Some of these problems end up in court.

The landlord is only allowed to withhold from the refund of the security deposit only such amounts as are reasonably necessary:

- to cover any unpaid rent due to the landlord under the lease;
- to restore the property to its condition at the beginning of the tenancy, ordinary wear and tear excepted; or
- to pay the landlord for actual expenses the landlord has as a result of the tenant's failure to give proper notice of the tenant's intention to terminate the tenancy, provided that the landlord makes a reasonable effort to reduce his or her damages by reasonable efforts.

Within 30 days of the day the termination of the tenancy (i.e. 30 days after the day the tenant moves out), the landlord is required by law to either return the full amount of the security deposit or to give the tenant a written, itemized list of the damages for which the security deposit or any part of the security deposit is withheld. The landlord can comply with the law by mailing the security deposit, or the itemized list of damages, to the last known address of the tenant. If the tenant does not give a new mailing address to the landlord, therefore, the tenant may lose the right to claim the return of the security deposit or to claim damages for the wrongful withholding of the security deposit. The landlord has no duty to try and find the tenant's new address. It is therefore very important for the tenant to let the landlord know of the tenant's new mailing address when the tenant moves out.

The landlord is required by law to give the tenant reasonable notice, in writing, of the date and time when the landlord will inspect the property following the end of the lease to decide how much of the security deposit to be withheld from the tenant. The inspection must be held at a reasonable time. The tenant has the legal right to be present at the inspection of the property at the time and date scheduled by the landlord. The landlord has to send the notice to the tenant's last known address. It is therefore important for the tenant to notify the landlord, in writing, of his or her new mailing address so that the landlord can send the notice to the correct address. If the tenant fails to give the landlord the correct address then the landlord has no duty to try and find the tenant's new address.

If the landlord fails to comply with the procedures described above, or if the landlord wrongfully withholds the security deposit or any part of the security deposit then the landlord will be legally liable to the tenant for damages in the amount not more than twice the amount of the amount wrongfully withheld.

If the tenant is afraid that the landlord may not be planning to return the security deposit or if the landlord may be planning to withhold too much from the security deposit then the tenant should take the following steps:

- Send a letter to the landlord, certified mail, return receipt requested giving the tenant's new address and asking for the return of the security deposit and/or an itemized list of the damages. A sample letter is provided below.
- Make certain that the property is left clean, with no garbage or other items of the tenant's property left behind.

- Take photographs of each and every room in the house or apartment and of the outside of the property, including any damage to the property which the landlord may try to charge for.
- Be present at the move out inspection and, if possible have a witness present. The landlord is not, however, legally required to agree to allow a witness to be present.

The following is a sample letter which can be sent to a landlord to ask for the return of the security deposit. It can be modified as circumstances require.

[Tenant's Name]
 [Tenant's New Mailing Address]
 [City, State Zip]

[Date]

[Landlord's Name] [Landlord's Address] [City, state Zip]

Ref: Request for Return of Security Deposit

Dear Landlord:

As you know, my tenancy is set to terminate on [date]. I am hereby requesting that no later than 30 days from the end of the tenancy you either return the security deposit in full or furnish me with a written, itemized list of the damages for which you are withholding any part of the security deposit in the manner required by law.

I would like to be present at the move out inspection. I am therefore asking that you give me reasonable notice of the date and time you plan to inspect the property at the termination of the tenancy to determine the amount of the security deposit to be withheld.

You can send me the notices to the address stated above. Thank you for your cooperation.

Sincerely,

[Your Name]

You should remember to send the letter to your landlord by certified mail, return receipt requested. And keep the receipt. If the landlord does not return the deposit, if the landlord withholds too much from the deposit, or if the landlord fails to give you the itemized list of damages the may want to consider taking the case to small claims court, or raising this as a counterclaim against the landlord if the landlord has sued the tenant.

A Checklist of Important Things to Remember

There are several things that you should be sure to remember to do to make life easier if problems arise between the tenant and the landlord:

- Keep copies of all leases, letters and other papers in a file and do not throw them away.
- Prepare a move in checklist.
- Never pay rent in cash.
- Pay rent with a check: or money order.

- Keep all rent receipts.
- Keep all receipts for repairs made by the tenant.
- Make all requests for repairs to the property in writing.
- Keep a copy of all letters or other papers you send to the landlord or that the landlord sends to you.
- Prepare a move out checklist.
- Leave the property clean and in good condition, normal wear and tear excepted.
- Notify the landlord, in writing of the tenant's new mailing address so that the landlord can refund the security deposit or send an itemized list of damages.

What Happens When the Tenant Does Not Pay the Rent?

The tenant has a legal obligation to the entire amount of rent when it is due. This is because, among other reasons, the landlord must make mortgage and other payments on the property and the landlord counts on a timely receipt of the rent to make the payments. The landlord is usually not legally required to agree that a tenant pay rent late, or to accept reduced payments. Many landlords, however, are willing to work with tenants when tenants run into problems with making rent payments. If the tenant runs into a problem then the tenant should talk it over with the landlord and see if an agreement can be worked out. Many leases require the tenant to pay a late fee when they are late with the rent.

If the tenant is late with the rent the landlord will make a demand for the rent. This demand can be either oral or in writing. If the tenant does not pay the amount due or if the landlord and tenant do not come to an agreement about making up the late rent then the landlord can file a lawsuit against the tenant in Court to evict the tenant. With a few exceptions, this is the only legal way to force a tenant out of the property without an agreement between the landlord and the tenant. It is usually illegal for a landlord to try and force a tenant out of the property by other means. Examples of illegal methods of forcing a tenant out of the property are:

- Locking the tenant out by changing the locks, except in certain limited circumstances.
- Cutting off utilities such as water, gas or electric service.
- Entering the home and throwing the tenant's possessions out on the street without getting a court order.
- Taking the tenant's property and holding the property until the rent is paid.

If the landlord takes any of these actions then the landlord may be liable to the tenant for damages.

What to Do if the Tenant Gets Sued For Eviction or Damages

If the tenant does not pay rent, damages the landlord's property or otherwise violates the lease then the landlord may file a lawsuit against the tenant in Court. If the tenant is still in possession of the property then the landlord will usually file a lawsuit to evict the tenant and to force the tenant to pay damages.

A lawsuit is started by filing a Petition in Court. The Court then issues a paper called a Summons. The Summons will state the name of the Court, give some instructions on filing an Answer and may state the date, time and location for a hearing before a Judge. The Summons and Petition are then served on the Tenant, usually by the Sheriff. If the tenant gets served with a summons and petition it is very important that the tenant follow the following steps.

- **Talk to a Lawyer Immediately!** The only person who can legally give legal advice is a lawyer. When the tenant talks to a lawyer it is important that the tenant bring all of the legal papers to the meeting, including: the summons and petition, a copy of the lease, all rent receipts to show payment of the rent, all letters from and to the landlord, and all other papers about the tenancy. The lawyer can give the tenant advice on what the tenant needs to do to fight the case. The lawyer can also give the tenant advice on whether the tenant may be able to file a lawsuit against the landlord for damages called a counterclaim. This is very important because sometimes if a counterclaim is not filed by the date set for hearing in the summons the tenant may not be allowed to file the counterclaim or certain defenses to the claim in the future.
- **Show Up In Court On the Date and Time Set in the Summons! NEVER IGNORE THE SUMMONS.** If the tenant does not show up in Court, at the right place and on time, then the Court will enter an order in favor of the landlord and the tenant will probably lose the right to fight the eviction. This means that in addition to being ordered to leave the property the tenant may also be ordered to pay back rent, the landlord's damages, the landlord's attorney's fees and court costs. This will be a judgment against the tenant, which may affect the tenant's future credit rating. The tenant may reclaim the ability to file a lawsuit for the tenant's damages under certain circumstances, but failure to appear is very risky.

If the tenant gets sued there are several important things to remember.

- The tenant must act at once!
- It is the tenant's responsibility to get legal advice. The landlord's attorney, the clerk of the Court and the Judge are not allowed to give legal advice to the tenant.
- It is the tenant's responsibility to understand the law and courtroom procedures. If the tenant does not understand them then it is the tenant's responsibility to get legal advice from a lawyer.
- Ignorance of the law is not an excuse in court. It is the tenant's responsibility to get legal advice before going to court. It is not an excuse, for example, for the tenant to tell the judge that the tenant did not understand the summons or petition.

If the Judge enters an order against the tenant evicting the tenant and/or ordering the tenant to pay damages, costs and attorney's fees then the order can be enforced against the tenant in a number of ways. The landlord can apply for an order (called a writ of execution) to the Sheriff, which orders the Sheriff to put the tenant and his or her property off the premises. In most cases, however, the Sheriff or Police cannot evict the tenant by force until the time for appeal or request for trial de novo has passed, usually 10 days. If the Judge orders the tenant to pay damages the writ of execution can also direct the Sheriff to seize and sell some of the tenant's property to pay off the judgment. The landlord can also apply to the court to enter an order to garnish the tenant's wages. This means that the court will order the tenant's employer to deduct money directly from the tenant's paycheck to pay the bill.

If the tenant is not satisfied with the judgment then the tenant has rights to **appeal the decision**. The tenant has the right to request a trial de novo (a new trial before a circuit judge) or an appeal if the case was tried to a Circuit Judge, but a trial de novo or an appeal will not automatically prevent the eviction

unless the tenant posts a bond with the court within the time for filing the request for a trial de novo or appeal. There are strict legal deadlines for filing appeals or requests for a trial de novo and appeals. If the tenant does not meet the deadlines then the tenant is out of luck. That is why it is so important that the tenant get legal advice from a lawyer RIGHT A WAY. The amount of the bond must be sufficient to pay all damages, costs and rent due under the order. Once the Court order is entered and the tenant refuses to leave then the landlord can ask the Sheriff or Police to enforce the order and remove the tenant and the tenant's belongings by force.

Where to go for Legal Help or Advice

One of the best ways to avoid problems is to get some legal advice before the problem gets so serious that the landlord files an eviction action or the tenant threatens to move out. If the tenant does not have a lawyer then there are several places that the tenant can go to get free or low cost legal advice.

Free legal services and advice are available to eligible, low-income tenants through the various legal aid offices that serve Missouri. The Legal Services Corporation offices that serve Missouri are:

- Legal Services of Eastern Missouri, Inc. Phone: 800-444-0514 or 314-534-4200
- Mid-Missouri Legal Services Corp. Phone: 573-442-0116 or 1-800-568-4931 (between 9:00 a.m. and 11:00 a.m.)
- Legal Aid of Western Missouri Phone: 816-474-6750
- Legal Services of Southern Missouri Phone: (417) 881-1397

If a tenant does not qualify for free legal services through legal aid then the tenant can get help finding a lawyer through the Missouri Bar Lawyer's Referral Service. The Service offers a referral to a private attorney for a half-hour consultation for a \$20.00 fee. It is usually well worth the \$20.00 fee to avoid the possibility of paying substantially more down the road. The Lawyer's Referral Service may be reached at the following numbers:

- Central Missouri: 573-636-3635. St. Louis area: 314-621-6681
- Kansas City area: 816-221-9472. Springfield area: 417-831-2783

Persons residing in Boone County may also obtain information from the Boone County Tenant's Association at 573-882-7670.