



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES OFFICE
2765 TENNESSEE AVENUE
FORT CAMPBELL, KENTUCKY

Landlord/Tenant Law

The Residential Lease Agreement. In renting a house or an apartment, an oral agreement can be enforced as a binding lease. However, it is strongly advised that you use a written lease to clearly define the contractual rights and obligations of both parties. You should look for certain clauses within the lease and be aware of the items described below before you sign a lease.

Duration. Most leases will be for a duration of six months or one year. Anything different from these lengths of time will likely require negotiation with the landlord. You may be able to find a month to month “tenancy at will” which provides flexibility by allowing either party to terminate the lease upon one month’s notice.

Service Members’ Civil Relief Act (SCRA) / Military Clause. The SCRA allows early termination of leases upon the receipt of deployment orders over 90 days or PCS orders which include a change in permanent duty station; or separation due to discharge, resignation, or separation from the service under honorable conditions; or retirement. The Act does not provide for early termination due to availability of Government housing. Upon receipt of these qualifying orders, the Soldier must deliver to the landlord, in person, by mail (with return receipt requested) or by electronic means, a written termination notice, stating it is pursuant to the SCRA, along with a copy of his military orders. This termination takes place 30 days after the next rent payment is due.

Security Deposit Clause. A security deposit is a payment made by the tenant to the landlord to cover the cost of any damages incurred by the landlord if the tenant defaults on the lease or damages the premises. It is fully refundable at the end of the lease unless the tenant has damaged the property or has breached the terms of the lease. Under those circumstances, the landlord is entitled to use the security deposit to repair damage or recover unpaid rent. Anything above these costs must be returned to you. Beware of excessive security deposits. As a guideline, the security deposit should not exceed one month’s rent. Be sure to get a receipt for the security deposit. Make sure it says, “security deposit” and shows the amount and date.

Inspection of Premises. Always inspect the premises jointly with your landlord before taking possession of the house or apartment and then again upon departing the premises. Failure to identify existing damages early on may result in your assuming liability for those damages upon your departure. However, the landlord generally cannot keep the deposit to pay for “normal wear and tear” such as faded paint, worn carpet, or a leaking roof.

Early Termination Clause. An early termination clause for reasons other than what is covered elsewhere in the lease allows the tenant to be released from the full requirements of the lease after giving the landlord notice and paying a penalty. For example, an early termination clause may provide that a “tenant may break the lease upon 30 days notice, forfeiture of the security deposit, and an additional one month’s rent.” Importantly, in the absence of an early termination clause, you are required to continue paying rent for the full lease term even if you move out earlier. It should be noted, however, that if you break a lease by moving out early, you are only required to pay rent until the property is rented by another tenant. Additionally, the landlord is required to

make a good faith effort to re-rent the property as soon as possible. However, if the landlord rents the property at a lower rate, you will be required to pay the difference.

Fire or Casualty Clause. The lease should also contain a fire or casualty clause. This clause releases you from liability for rent if the premises are destroyed. The tenant may leave the dwelling immediately but must give the landlord notice of intention to terminate the lease. The landlord must then return any unused portion of the prepaid rent.

Late Rental Payment. Usually, you will have a five-day grace period specified in the lease to make your rental payment. Once your grace period ends, the landlord has two options: (1) The landlord will charge you a late fee which should be specified in the lease, in Tennessee the penalty cannot be more than 10% of rent past due, in Kentucky there is not a limit; (2) The landlord could ask a court to order the sheriff to evict you for breaching your lease contract (see Client Services Office information paper on Eviction Procedures for more information). If you anticipate not being able to pay your rent, discuss the problem with your landlord right away, and politely ask him or her to give you additional time to make the payment without incurring a late fee or more serious legal action.

Subletting. Subletting is when you rent your place to someone else. As a general rule, you must look to the terms of the lease to see if you are allowed to sublet. If not mentioned in the lease, you should obtain the written consent of the landlord before subletting. Without permission from your landlord, you could be breaching your first lease as well as breaching any contract with your new renter.

Warranty of Habitability and Right to Peaceful Possession. Tennessee and Kentucky laws require the landlord to keep the premises safe, sanitary, and habitable. Furthermore, you have the right to live peacefully in the place you rent. Your landlord cannot harass you. For example, the landlord cannot lock you out or shut off your electricity without a court order. Except in an emergency, the landlord cannot come into your place without asking you ahead of time. These requirements are in effect regardless of whether or not they are explained in the lease. If the landlord violates these requirements, the tenant may take certain actions to force the landlord to comply or to get out of the lease. As a first step, the tenant must give the landlord notice (written notice is preferred) of the defective conditions, plus a reasonable time to repair before seeking other remedies. Before you take such action, however, you should consult with a Client Services Attorney to ensure you are within legal bounds.

Unlawful Discrimination. It is against the Fair Housing Act for a landlord to discriminate against you for any of these reasons: your race, color, or national origin; your gender; your religion; because you have children who live with you; or because you or someone you live with or associate with has a handicap. This law does not apply in every case. Consult with a Client Services Attorney for further information. If you have been treated unfairly by a landlord, you can file a Fair Housing complaint by calling the U.S Department of Housing and Urban Development's Housing Discrimination hotline at 1 (800) 669-9777. The Housing Services Office will also guide you regarding housing discrimination complaints.

Be aware that by signing a lease, you are signing a legally binding contract. Read the lease carefully before signing it, making sure that everything you discussed and agreed upon orally is written down in the lease. Make sure you get a copy of the lease for your records. If you desire help interpreting the agreement, feel free to visit the Client Services Office, preferably *before* you sign the lease.

More Information: The Fort Campbell Housing Services Office (HSO) can help with certain off post landlord/tenant issues. The services they provide are: (1) assistance with rental negotiations

and review of leases; (2) inspection of rentals for adequacy; (3) mediation of tenant/landlord complaints; (4) assignment and termination inspections upon request; (5) housing discrimination complaints; and (6) special assistance to Soldiers with rental challenges. Fort Campbell Housing Services Office is located at 2702 Michigan Ave., Fort Campbell, KY 42223, (270) 798-3808.

If you have any questions concerning these matters, please come to the Client Services Office (Building 2765) 2765 Tennessee Avenue, Fort Campbell, KY 42223. Office hours are Monday, Tuesday, Wednesday from 0900 to 1600 hours, on Thursday from 1300-1600, or on Friday 0900 to 1500 (we close for lunch every day from 1145-1300).