



Legal Briefs

From the Fort Knox Legal Assistance Office

KENTUCKY LANDLORD-TENANT LAW FAQs

WHERE SHOULD I LOOK FOR AN APARTMENT?

- Kentucky's landlord-tenant law can vary significantly depending on the city or county where the rental unit is located. Some cities and counties¹ have adopted the Uniform Residential Landlord and Tenant Act (URLTA) which provides greater protections for tenants.
 - Unfortunately, the cities and counties surrounding Fort Knox, with the exception of Louisville-Jefferson County, have not adopted URLTA.
 - Therefore, the answers given in this FAQ document assume that URLTA does not apply.

WHAT SHOULD I LOOK FOR IN THE LEASE AGREEMENT?

- Legal Assistance provides walk-in reviews of unsigned leases daily at 1500 hours. Your Legal Assistance attorney can meet with you and inspect your lease agreement before you sign it.
- **Make sure you have an opportunity to inspect the rental unit before signing the lease agreement.** It is preferable that you not sign the lease until the day you move in. This will prevent any surprises on move-in day. It is not uncommon for the previous tenants to damage or dirty the apartment as they move out. If the landlord refuses to reserve the apartment for you until you sign the lease, ask that the lease be amended so that you have the option to refuse possession of the apartment if it is not in an acceptable condition on move-in day.
- **Make sure the lease states that the landlord will maintain the premises in a habitable condition.** Otherwise, under Kentucky common law, your landlord will have no legal duty to make any repairs to the rental unit.

¹ Barbourville, Bellevue, Bromley, Covington, Dayton, Florence, Lexington-Fayette County, Georgetown, Louisville-Jefferson County, Ludlow, Melbourne, Newport, Oldham County, Pulaski County, Shelbyville, Silver Grove, Southgate, Taylor Mill, and Woodlawn have adopted URLTA.

- Many lease agreements will not contain this language because they have been written to provide the greatest possible protection for the landlord. However, any decent landlord anticipates that he will have to make some reasonable and necessary repairs during your tenancy.
- If the landlord refuses to add this language, you may want to look for an apartment elsewhere. It is possible that the landlord intends to make necessary repairs but does not want to amend the lease because he doesn't think it is necessary to do so. However, if the apartment falls into disrepair, and the landlord refuses to correct the issues, you will still be responsible for paying the rent.
- **Under Kentucky common law, the lease agreement is controlling.** Therefore, you should read the lease carefully. You will have to decide whether the terms are acceptable to you or not. If not, you can always try to negotiate the terms with the landlord before you sign the lease. For instance, you could ask that the terms state that “both parties agree to be bound by the Uniform Residential Landlord and Tenant Act, KRS §§ 383.500 – 383.715. “ However, the landlord is under no obligation to accept the terms you offer, and no matter what is discussed, it is important that you understand the terms as they are finally stated in the written lease agreement. Try to answer the following questions while reading the lease in order to decide if it is an agreement you are willing to live with.
 - Does the lease state the correct address of the rental unit that you inspected?
 - Does the lease reflect your understanding of: the amount of rent due, when and how often it is due, the date you may move in, the duration of the lease, and any refund provision should you move out early?
 - Does the lease state how many occupants are allowed as tenants?
 - What happens at the end of the lease term? Does the lease automatically continue upon a month to month basis (or even renew for a larger period of time)? What steps do you have to take to prevent the lease from automatically continuing?
 - Is there a security deposit? On what grounds can the landlord withhold your security deposit?
 - Does the lease state who is responsible for payments of heat, electricity, water, gas, telephone, internet, garbage removal, etc...?
 - Does the lease state who is responsible for repairs?
 - What are the rules regarding pets, musical instruments, stereos, T.V. antennas/satellites, washers, dryers, etc...?
 - Who is responsible for yard maintenance?

- What is the penalty for terminating the lease early? Does the lease state that the landlord may or must seek a replacement tenant and credit any rents recovered towards your lease in the event of early termination?
 - If you have to terminate your lease early due to a deployment or change of station, the Servicemembers Civil Relief Act (SCRA) prohibits your landlord from assessing any penalties. Any provision in the lease that states otherwise is void, and you can probably ignore it. However, the existence of such a clause may be a sign of trouble.
- When can the landlord enter the apartment, with or without your consent?
- Is parking available?
- Can you assign or sub-let the apartment, with or without the landlord's permission?
- Does the landlord disclaim any liability for damage to your personal property?
- How can the lease be amended by either the tenant or the landlord?
- Are there "quiet hours" or other rules regarding use of common areas?

WHAT SHOULD I DO BEFORE I MOVE IN?

- Before you take possession of the apartment, make sure you and the landlord create and sign a list of existing defects/ damage. Move-in day can be stressful for many reasons, but do not sign the list without inspecting the apartment to make sure it is accurate. **Keep a copy of the list for your records.** If the landlord tries to withhold your security deposit when you move out, you will need this list as proof of the condition of the apartment at the beginning of your tenancy.
- Do not rely on the landlord's oral promises to clean or otherwise fix the apartment after you move in. If the apartment is not acceptable on move-in day, you should have the landlord state in writing what action he or she will take to remedy the situation. This writing should include the following language: "If Landlord does not satisfactorily remedy the above defects within [number of days you are willing to wait] days from the date of this writing, then Tenant has the option to terminate the lease, move out, and pay no more rent." Again, if the landlord truly intends to clean or fix up the apartment as promised, he should have no reason not to put it in writing.
 - Make sure any written promise complies with the amendment process provided for in the original lease agreement.
- Make sure you are given possession of the entire area that you were promised under the lease. If the landlord has withheld possession of some portion of the leased premises, you have two options: (1) you can refuse possession of the entire premises;

or (2) you can accept possession of the premises and offer to pay a reduced rental amount until you are given possession of the entire premises.

- Designate a safe place in the apartment to keep all your important documents concerning your lease agreement. You should keep a copy of your lease agreement, your move-in checklist, any written communications between you and your landlord, and any bills, statements, or work orders concerning the maintenance of the apartment.

WHAT SHOULD I DO IF MY LANDLORD REFUSES TO MAKE REASONABLE AND NECESSARY REPAIRS?

- If the lease agreement does not state that the landlord will make repairs or maintain the premises, then your rights under the law are limited.
 - Make an appointment to see a Legal Assistance attorney and remember to bring a copy of your lease agreement, your move-in checklist, and any pictures or proof of the intolerable situation.
 - While your legal options are probably limited, the Legal Assistance Office may assist you in drafting a demand letter, encouraging your landlord to do the right thing.
 - You should be prepared to continue to pay rent, whether or not you stay in the apartment, until the lease terminates or your landlord releases you from the agreement.
- If the lease agreement does state that the landlord will maintain the property in a habitable condition, you may have additional options.
 - You should take the same initial steps as listed above, but if the situation becomes completely intolerable, you may decide to move out based on the legal principle of “constructive eviction.” However, this is a high-risk strategy which can be difficult to pursue.
 - Constructive eviction occurs when an act or omission of the landlord creates an intolerable living environment for the tenant, and the tenant vacates the premises as a direct result of these conditions. If you are constructively evicted, the lease is terminated and you can move out and stop paying rent. But be advised:
 - You must give written notice to the landlord, stating the specific problems that have created the intolerable conditions

and a date by which the landlord must correct these problems in order to maintain the lease agreement, before you move out.

- Also, if you can afford to do so, you should continue to pay rent into a separate account as a sign of good faith. The money will not go to the landlord, but if the case goes to trial, you can show the court that you are not simply trying to avoid paying rent.
- If your landlord ignores the notice, and you feel forced to move out and stop paying rent, your landlord may decide to sue you in state court.
- If he does, you will have to prove that you were constructively evicted from the apartment. This is difficult to prove unless extremely severe circumstances exist (e.g., water being turned off for several weeks). Additionally, understand that Legal Assistance attorneys will not be able to represent you in state court. You will need to hire an attorney to represent you.
- If you lose in court on your claim of constructive eviction and your lease requires you to pay costs and fees if you lose in court, you will have to pay the amount of the judgment, plus pay for your landlord's court costs and attorney fees.
- As you can see, successfully asserting constructive eviction can be difficult. You should consult with a Legal Assistance attorney before undertaking this strategy.

WHAT SHOULD I DO BEFORE I MOVE OUT?

- Read your lease agreement as soon as you know that you plan to move out of the apartment. There may be deadlines for notifying your landlord that you do not plan to continue the lease at the end of the term.
- Make sure to clean the apartment and fix any minor damage that you caused during your tenancy. Remember, you represent the Army. If you are a good tenant, chances are good that the next Soldier to rent the apartment will be treated with respect.
- Make sure you and the landlord create and sign a list of any existing defects. Move-out day can be just as stressful as move-in day. Nevertheless, this move-out checklist may be your only proof that you left the apartment in good condition; make sure it is accurate and signed by both you and the landlord.

WHAT SHOULD I DO IF MY LANDLORD WON'T RETURN MY SECURITY DEPOSIT?

- Make an appointment to see a Legal Assistance attorney and remember to bring a copy of your lease agreement, your move-in checklist, your move-out checklist, and any pictures or proof of the condition of the apartment before and after your tenancy.
- A Legal Assistance attorney will be happy to assist you in composing a letter demanding the return of your security deposit so long as you bring in the supporting documentation listed above.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at www.knox.army.mil/center/sja/. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.
