

Self-help Handbook for Tenants

*Legal Advocates For
Low-income Families*

NPLS

NORTH PENN LEGAL SERVICES

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Introduction

Purpose

This handbook provides useful information about renting an apartment and some of the basics of landlord-tenant law. For those looking for rental housing, the handbook has practical suggestions about what to look for while inspecting the rental unit and what questions to ask the landlord. For those who are already renting, the handbook discusses common problems such as nonpayment of rent or complaints about repairs.

Disclaimer (a legal caution)

This handbook contains a general statement of the law and should be used only as a guide. It should not be considered legal advice because everyone's case is different. One city's codes may not be the same as another's. Also, the laws about landlords and tenants change. This handbook may not be reprinted every time the law changes.

Need legal help?

A lawyer can help you understand the laws that may apply to your specific situation. If you can't afford a lawyer, contact North Penn Legal Services (NPLS). If you are low-income, you might qualify for free legal help. NPLS telephone numbers and office locations are printed on the Getting Help insert.

Acknowledgments

This handbook merges the content of two fine publications: *The Right Stuff about Renting*, (published by the Community Action Committee of the Lehigh Valley with the support of the Lehigh Valley office of NPLS) and the *Handbook for Tenants* (published by NPLS' Susquehanna Valley offices.)

Usage

For convenience and clarity, male pronouns ("he, his, him") are used to refer to the landlord and,, although this material is of value to both tenants and landlords, the pronoun "you" is sometimes used in place of "tenant".

On-line version and video resources

This handbook is available in an electronic format at <http://www.northpennlegal.org>. Three NPLS videos on rental housing are available at program offices and many area libraries.

Renting an Apartment addresses many practical issues tenants and landlords should consider before entering into a lease agreement. Of particular interest to landlords is an extensive panel discussion on discriminatory advertising and rental practices. The format includes scenes and a panel discussion. (24 minutes)

The ABC's of Landlord-Tenant Law addresses most of the problems arising during the tenancy, including written versus oral leases, eviction notices, illegal self-help evictions, security deposits, and warranty of habitability. The format includes several scenes and panel discussions. (55 minutes)

The District Justice Hearing is a 28 minute mock hearing in front of a real district justice. The subject matter is a landlord-tenant dispute, but the video should be useful to anyone with a civil claim. Following the hearing, there is a 10 minute panel discussion involving three district justices. (38 minutes)

Items to think about before looking for an apartment or house

Fair Housing

The Fair Housing Act of 1988 provides protection from housing discrimination for all housing applicants, tenants, and buyers. People are not allowed to be discriminated against because of their race, color, religion, national origin, sex, disability, or familial status (whether or not you are pregnant or have children). The Fair Housing Act covers renting or selling a house, renting an apartment, getting a mortgage, and advertising the apartment or house. It is illegal under this law to:

- advertise in ways that show preference or discrimination; or
- discriminate in providing services or facilities; or
- refuse to rent or lease to a qualified tenant because of race, religion, national origin, sex, disability, or family status; or
- say someone cannot look at or rent an apartment or a house because it is not available when it really is available.

You can file complaints under the Fair Housing Act within one year from the date of a problem. To file a complaint, call the Pennsylvania Human Relations Commission. Depending on where you live, there may also be local and state laws against

discrimination. Check with the local city offices for housing assistance, NPLS, or the local lawyer referral service. If your area has no agency to take housing complaints, the state agency PHRC may help (See Getting Help insert or the Blue Pages of your telephone directory).

What is a lease?

A lease is an agreement, or a contract, between the owner and the tenant for the rental of property. The tenant receives exclusive possession of the rental unit and the owner receives money for rent. In the past, the lease terminology was written in complex legal terms. In Pennsylvania, the lease must be written in plain language to make it easier to understand.

There are two types of leases: an oral lease and a written lease. An **oral lease** is a verbal agreement between the landlord and the tenant. In Pennsylvania, an oral lease is legal and binding for up to 3 years. The term of an oral lease is usually month-to-month but may be shorter depending on when you pay your rent. For example, if you live in a place where the rent is paid weekly, then the oral lease term would be a weekly one. The term of a lease is important because it determines what kind of notice a tenant or landlord must give to terminate the lease.

A **written lease** is a contract that defines the responsibilities of the landlord and tenant. A written lease is better for both the tenant and the landlord. Both can go back to the written lease to find out what was agreed upon. The written lease is the best defense if the tenant or the landlord challenges the other for breaking the lease. You should receive a copy of the signed lease from your landlord after you sign it. Keep this copy for your records.

Problems: Since the landlord usually provides the written lease to the tenant, he should not include arbitrary or unfair clauses in the small print of the lease. A court should refuse to enforce a provision that seems unconscionable or has been ruled by the courts to be illegal. Read the lease carefully before you sign it and have both parties initial any changes made to the lease. With both oral and written leases, if either party wants to end the lease, proper notice must be given to terminate the lease agreement. A written lease should state the amount of notice required, but usually, it is one or two months in advance. With an oral lease, the amount of notice is determined by how the rent is paid. So, if you pay monthly, then a month's notice would be required, but if you pay weekly, that may be the amount of notice that is required. Any notice you give the landlord about terminating the lease should be in writing. Keep a copy of the notice for your records.

Warranty of habitability

The Warranty of Habitability is a guarantee, implied by law into every residential lease, stating that the landlord is required to provide safe and sanitary conditions for his

tenants. This law applies to all housing but does not mean that the housing was inspected and/or approved to meet local housing standards. It just means that if the landlord does not provide basic conditions to ensure that the place is safe and sanitary, he can be held responsible. Generally, the basic requirements that a landlord must provide are drinkable water, heat, a working sewer system, a working electrical system, a working smoke detector, a working lock for your outside door, a place not infested with bugs and/or rodents, and a safe structure both inside and outside the home. A landlord may not be responsible to pay for all these things (for example, sometimes tenants are responsible for utilities), but they must make sure they are available.

Most areas have local Code Enforcement Officers and/or Health Inspectors whose job it is to make sure that landlords are providing the basic requirements. Some municipalities require the landlord to obtain a certificate of occupancy before a property is leased, which may have included an inspection. If your landlord is not providing a safe and sanitary place, then you should call your local Code Enforcement Office or Health Inspector (see Getting Help insert). You can also call NPLS or a private attorney for assistance.

Security deposit

The security deposit is money the tenant may be required to give the landlord when first renting the apartment or house to cover damages that might be caused by the tenant during the term of the lease. In Pennsylvania, the security deposit can be up to two months of rent in the first year (see *Your Security Deposit*, p.9). The amount of the security deposit paid to the landlord should be written in the lease and you should get a receipt for the security deposit for your records.

Lead-based paint disclosure

Lead-based paint is something to be aware of in homes built before 1978. Lead was used in making paint before the awareness of the health and safety concerns. Since existing apartments or homes may have lead-based paint, you should be informed about this by the landlord before signing the lease or buying a house. Other sources of lead may be lead pipes in the apartment or house or the soil.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 requires the landlord to provide tenants with information about lead-based paint in the apartment or house being rented or bought. The landlord or owner is not required to test or remove lead that exists in the unit, unless ordered to do so by the local Code Enforcement Office or other local, state, or federal agencies. Since 1996, the act has applied to all rental properties. An owner or landlord who fails to give the proper information can be sued for triple the amount of damages. In addition, the owner may be subject to civil and criminal penalties.

Reasonable accommodation for disability

A landlord must allow reasonable modification at the tenant's expense so that a disabled person can use the apartment or house. Examples include adding a ramp, grab bars, level door openers and faucet handles. The landlord must approve such modifications before they are made, and he may request a security deposit if there will be a cost and necessity to restore the apartment to its original condition when the tenant moves. Landlords receiving federal subsidies may be required to keep the security deposit the same for all tenants.

Additionally, the landlord must allow accommodations concerning any special services the tenant requires to abide by the terms of the lease. For example, under the terms of the lease, the tenant has a responsibility to keep the home clean. If a physical or mental health disability prevents the tenant from being able to clean the home, the tenant has the right to have someone else help clean or a social worker to help the tenant find such assistance. The landlord does not have to provide this service, but should allow the tenant the opportunity to use it before taking action to evict the tenant. If the landlord does not allow the tenant this opportunity, even though the tenant has disclosed the disability and requested accommodation, the tenant may have a defense to an eviction action, or the tenant may file a complaint with the appropriate agency. (See Getting Help insert or the Blue Pages of the telephone directory.)

What can a person with a disability expect?

A landlord, housing manager, seller, or lender is not allowed to ask you questions about your disability! You are also not required to provide your medical records or sign a document allowing others to see them.

Questions about your medical history and disability are prohibited, except in the following circumstances:

If you are applying for housing designed or designated for people with a disability, it is legal to ask if you qualify for such a unit.

If the housing is designated for people with a particular disability, it is legal to ask if you qualify for a priority available to people with this particular disability.

A landlord may ask if your tenancy would pose a direct threat to the health or safety of other people or if you would cause substantial physical damage to other people's property, and if a reasonable accommodation would remove the risk. "Substantial physical damage" means more than ordinary wear and tear and damage to more than a single item of property.

Looking for an apartment or house to rent

How can I find an apartment or house?

Ask your friends about any “For Rent” signs in their neighborhood, and check your own neighborhood for signs. Check the classified section of the local newspapers that cover surrounding communities. The local public library has copies of the local newspapers available (See Getting Help insert).

Look for local apartment guides in grocery and convenience stores. The apartment guides will likely be near the community service bulletin at the front of the store.

When you find apartments or homes that you can afford, start looking at them! Keep in mind that there is no perfect unit or perfect landlord. You should make notes of the surroundings (neighborhood, parks, shopping malls, access to main roads, bus line, etc.) and the quality of the rental unit. Your notes can help you compare different apartments or homes.

How should I start looking for an apartment or house?

You have the best chance to get a good place if you know what you need and plan how to get it. Begin your search by answering the following questions:

How much can you afford to pay for rent, utilities (gas, electric, water, sewer, trash removal, recycling, heat, cable), and other necessities? A general rule is that your rent should equal one week’s gross pay or about one-fourth of your gross monthly income. As more of your monthly income goes to paying the rent, the less you will have to buy other necessities and pay bills. If you have trouble handling money or following a budget, credit counseling is available to help you. (See Getting Help insert and budgeting samples, p. 9.)

When will you need housing? Pick an exact date. Give yourself enough time to find a place.

What kind of housing do you need? An apartment or a house? How much space do you need? What furniture or appliances will you need? For example, do you need a yard for children, a ramp for handicapped access, or a first floor for a family member who cannot use steps?

Where do you want to live? A particular town? An area of town or a specific neighborhood? Do you and your family need to be near work, school, or bus routes?

The key to success at finding and keeping good housing is: DO NOT WAIT until the last minute to get help. ACT NOW!

If you need immediate housing due to eviction or other circumstances, you may need to rely on family, friends, or hotels temporarily. You may be able to get into a shelter, but most shelters have long waiting lists.

How can I budget my money? (example) single person

| Item | 7 days | 4.3 weeks | 12 months |
|----------------------------------|---------|-----------|------------|
| Rent | \$94.62 | \$410.00 | \$4,920.00 |
| Food | \$46.15 | \$200.00 | \$2,400.00 |
| Car Insurance (1 car) | \$23.08 | \$100.00 | \$1,200.00 |
| Utilities | \$24.23 | \$105.00 | \$1,200.00 |
| Transport/Gas | \$11.14 | \$50.00 | \$600.00 |
| Medical Expense | \$4.33 | \$18.75 | \$225.00 |
| Renter Insurance | \$2.88 | \$12.50 | \$150.00 |
| Other Expenses | | | |
| Totals | | | |

The totals must be less than or equal to your monthly and annual pay.

How can I budget my money? (example) family

| Item | 7 days | 4.3 weeks | 12 months |
|--------------------------------------|---------|-----------|------------|
| Rent | \$94.62 | \$410.00 | \$4,920.00 |
| Food | \$75.05 | \$325.00 | \$3,900.00 |
| Day Care (baby sitting) | \$58.14 | \$250.00 | \$2,600.00 |
| Car Insurance (2 cars) | \$46.15 | \$200.00 | \$2,400.00 |
| Utilities | \$34.62 | \$150.00 | \$1,800.00 |
| Life Insurance (\$25,000) | \$10.10 | \$43.75 | \$525.00 |
| Transport/Gas | \$13.85 | \$60.00 | \$720.00 |
| Medical Expense | \$13.46 | \$58.33 | \$150.00 |
| Renter Insurance | \$2.88 | \$12.50 | \$150.00 |
| Other Expenses | | | |
| Totals | | | |

The totals must be less than or equal to your monthly and annual pay.

Here is what you should expect

- A neighborhood you feel comfortable living in
- An apartment or house that meets your basic needs, but preferably more than just the basics for shelter and safety
- A landlord you respect, get along with, and who gets along with you

Visiting apartments or houses and meeting the landlord

- Dress properly. Clean, neat, and simple is best. This shows the landlord that you are responsible and sincere.
- Keep an appointment when you make it. If there is a reason why you must be late or cancel, call the landlord and let him know. Simple good manners like this are important.

- Be ready to fill out an application or make a deposit to hold the unit in case you find what you want.

What to look for in a rental unit

The landlord is required to maintain a certain level of quality housing (See “What should I do when I need repairs“, page 18). You may want to talk with tenants in the apartment complex or the neighbors in order to get a sense of how the landlord responds to the needs of the tenants. Use the apartment inspection checklists, starting at page 38, as a guide to insure that you will get what you are looking for.

Do I really have to know about all of the items in the apartment checklist for each unit I visit?

No. How thorough you want to be with your search for an apartment or house is up to you. By taking your time and reviewing the details, you may have fewer problems to deal with later. There is no guarantee that you will not have problems. You should be suspicious of places that are priced way below other similar places and places with a lot of problems.

Should I move into an apartment or house where there are problems? What if the landlord promises to fix them?

Generally, the answer is no. You should try to find a place that does not need significant repairs. Even if the landlord promises to make the repairs once you move in, there is no guarantee that he will do so. If the repairs are minor ones (new light bulbs or shower curtain), then it might not make a big difference because you could fix these problems yourself. If the repairs are major (no smoke alarm, broken windows, no heat), you should not move into the apartment.

However, many people do move into places with bad conditions because the rent is cheap, the landlord promises to make the repairs, and they need a place right away. In this case, you want to make sure that you get the landlord to sign a written agreement that he will make the repairs by a certain date. If you agree to do some of the work in exchange for a reduction in rent, **get that in writing** or it will be difficult to prove later. You should also take pictures of the repairs that are needed. If the landlord doesn't make repairs and you need to sue him to try to get the repairs made, you will then have the pictures and signed agreement as proof of the conditions and his promise to make the repairs. Remember to keep a copy of the agreement signed by your landlord.

How much can a landlord charge for late fees?

Although late fees may vary from landlord to landlord, the amount charged must be reasonable. For example, a late fee of \$25 assessed after a five-day grace period may be reasonable, while a late fee of \$25 per day after the first of the month may be deemed excessive. You should be careful about signing a lease that includes such charges.

Your chosen apartment

Your first step will be to fill out a rental application. The landlord may charge an application fee and will review the information you supply.

Information needed to fill out the rental application

- Identification with a picture.
- Social Security numbers, dates of birth, and full legal names of yourself and any adult(s) over 18 who will live with you.
- Place of employment for each adult, correct company name and address, the full names of immediate supervisors, and gross yearly or monthly income.
- Amounts of money in: Bank account(s), bank loans, and credit card debt for any adult named on the lease. The landlord uses these to check your credit rating and evaluate whether you can pay the rent.
- Driver's license and motor vehicle registration if you have a car.
- Rental history, the addresses and phone numbers of the people you lived with for the last two to four places you lived. This can assist you in showing the landlord that you are a responsible individual.

To increase your chances of getting the apartment you want, have the information organized and ready. Be honest with all the information you give. Landlords have the right to obtain a credit report and do a criminal records check. If you lie on the application or give false information on purpose, you are committing fraud. Criminal charges may be brought against you for giving false answers or information. If the landlord rejects your application, the landlord will need to explain why. If the reason stated does not seem appropriate, contact NPLS or the local lawyer referral service to discuss what you might do; (see Getting Help insert).

Negotiating with the landlord

If the landlord approves of your renting the apartment or house, you may be asked to sign a lease. Look at the Lease Checklist, p. 42, ensure that you ask the landlord all of your questions about the lease.

You may be able to negotiate with the landlord to improve conditions in the apartment or provide more services. It may be harder to do this with apartment complex managers because of company policy, but ask! At some point, you may have to settle for what is offered, or you can decide to look elsewhere.

The time to make deals with the landlord is after you have been accepted as a tenant, but before you sign the lease. The landlord will usually ask for a security deposit (up to two months' rent) and require you to sign a lease stating the agreement that you are willing to accept. You can cancel the lease within 72 hours of signing the lease, which allows you to get your security deposit back. However, if you are unsure, you may want to take time to look at other apartments or review the lease in more detail. Contact NPLS or the local lawyer referral service to review the contract, answer your questions and address your concerns. (See Getting Help insert)

Remember that **once you sign the lease** you are in a contract for a certain period of time as stated in the lease. The only way you can make changes is if you and your landlord both agree to change the contract in writing. If you do not meet the requirements that are expected of you, the landlord will be allowed to find other tenants and require you to move out.

Moving into your apartment or house

What are the landlord's responsibilities?

- The Landlord must provide the following:
- Drinkable water / Water in kitchen and bathroom
- Hot water
- Heat (in cold weather)
- Working sewer system
- Bathroom (bath tub or shower and toilet)
- Safe, working electrical system
- A lock for the door(s)
- An apartment or house not filled with bugs or rodents
- Safe, sanitary condition of the structure of the house and outside area
- Working smoke alarms
- An information pamphlet about lead-based paint ('Protect Your Family from Lead in Your Home')

What are the tenant's responsibilities?

- Pay the rent on time and regularly for the full length of the lease.
- Keep canceled checks or money order slips as proof of any rent or security deposit you paid.
- **Remember to get a receipt if you pay in cash or money order.** You should *never* pay your rent without getting some sort of receipt from your landlord!

It can simply say:

Received \$ _____ from _____ for _____ (month).

Balance due \$ _____

Date _____ Landlord. _____

- Take care of repairs when the damage is your fault.
- Clean the apartment or house to keep it in good condition.
- If repairs are needed, put a dated request in writing to the landlord. Keep a copy.
- Keep agreements made in the lease, such as not making too much noise.

Tips to remember when moving.

Telephone, Cable, and Utilities.

- You need to contact the local telephone, cable, and utility companies for installation and connection of whatever services you want.

Fire and Police Information.

- Find the telephone number of the local fire and police departments and emergency numbers. Post these numbers by the telephone so they are handy in an emergency. Are you in a 911 area?
- If possible, have at least one fire extinguisher handy, preferably in the kitchen. Know how to operate the extinguisher. There should also be an extinguisher in the common hall of a multi-unit building.
- Pennsylvania law requires that the landlord supply a smoke alarm in working condition in each unit. The lease will state whether the tenant or landlord is responsible to check the smoke alarm and replace batteries when necessary. If the smoke alarm is not working, and it is not just dead batteries, the tenant needs to

inform the landlord by phone and in writing that the smoke alarm needs to be replaced. The landlord has 72 hours (3 days) to replace the smoke alarm. If he doesn't replace it within that time period, the tenant may send the landlord a letter stating that they are purchasing a smoke alarm and deducting the price from the next month's rent. When the tenant pays the next month's rent, they must include the receipt for the smoke alarm.

Renter's Insurance.

- Your landlord's insurance may **not** cover your personal property. The landlord may **not** be responsible for your belongings; you are. You will need to get renter's insurance to cover theft, loss, or damage of your personal belongings.
- Contact several insurance agents and compare costs. A policy may cost \$240.00 per year.

Apartment security

As a general rule, call the emergency telephone number in your area when you find smoke, water, gunshots, or blood in your apartment, apartment building, or immediate surrounding area. Then call the landlord.

To keep unwanted persons out and avoid burglary, check that you have adequate locks and use them. A dead bolt is best. Before you add or change the locks, talk to your landlord. Your landlord is legally allowed to have a full set of keys for any locks you install.

Dealing with situations while renting

What if I can't pay my rent

A landlord can evict you for non-payment of rent. As a tenant, you are legally responsible to pay the full amount of rent in a timely manner. Even when you sign the lease with other people, each person may be solely responsible for the full amount of the rent. So, if one of the people who signed the lease leaves or can't pay the rent, the other person(s) will be responsible to pay the full amount due.

The lease will set the terms of your rental payments. Generally, the rent is due on the first of the month. If you don't pay your rent on time, the landlord can file an eviction action against you. It doesn't matter if you are disabled, your money was stolen, you just lost your job, it is the wintertime, and/or you have children. You can still be evicted for non-payment of rent.

If you will not be able to pay your rent, you should tell your landlord immediately. You should not wait until the day it is due or a few days later. Explain to him or her why you can't pay the rent and ask to make a payment arrangement. If your landlord agrees to enter into a payment arrangement, get this agreement in writing and keep a copy for your records. Remember, if you do not keep the agreement, the landlord will be able to evict you. The eviction process is discussed at page 26.

When you do have an unexpected loss of income, you may be able to get help from a local agency or the Department of Public Welfare for rent payments (See Getting Help insert).

When can my landlord enter my apartment?

As a tenant, you are entitled to the peaceful use and quiet enjoyment of the property you are renting. This means that unless your lease says otherwise or there is a serious emergency, your landlord should not come onto the property without your permission. Since your landlord owns the building in which you live, he is entitled to have keys to your apartment. However, this does not mean that the landlord can enter the apartment whenever he wants. The lease may have a term allowing for entry into the apartment by the owner to make repairs, perform inspections, or show the property to buyers or prospective tenants. Generally, if the landlord needs to make repairs, he should give you at least 24 hours notice to do so. If you want to be home when he is there, you may need to rearrange your schedule. If you don't care if you are home or not, you can give him permission to enter.

If there is an emergency (water leaking, pipes bursting, etc.) and your landlord can't reach you, then he has the right to enter to deal with the situation. He should leave a note so you know someone was there, but that doesn't always happen. If you have reason to believe the landlord was in your apartment, you should call and ask him to explain why he was there.

If there are no repairs to be made and the situation is not an emergency, the landlord should not enter your apartment without prior agreement. If your landlord comes to your apartment often and wants to enter for no reason, you may need to get advice from an attorney, or ask the landlord in writing to give you 24 hours' notice unless there is an emergency.

Problems with other tenants

If you are having problems with other tenants bothering you, report the problem to your landlord in writing. (It is always best to **keep a copy** of any letter that you send to your landlord). Explain the problem in detail, and ask your landlord to address the situation. If you feel you are being threatened by the other tenants, you may always call the police. If you don't hear from your landlord within a few days, follow up with another letter asking him what he did to correct the situation. Hopefully, he will have spoken with the tenants and advised them to stop the bothersome behavior. In some instances, the landlord will not address the problem and then it is up to you if you want to continue to stay in the apartment.

Remember, if you have a lease, you are bound to its terms, so if you break it and move because of problems with other tenants, the landlord may take action against you. If you think you will need to move because of the problems, you should call NPLS or a private attorney for advice.

Can my relatives or friends move in with me?

Your lease will state who is allowed to reside in your home. You could be evicted for breaking your lease if you allow others to move in. If you want to have someone else move in or stay with you for an extended period of time, you should ask the landlord for permission. The landlord may want to raise the rent for additional people. If the landlord agrees to let someone else move in either permanently or temporarily, you should get that agreement in writing.

What do I do if the landlord fails to pay the utility bills?

If your landlord is responsible for utility payments according to the lease, but does not make the payments, you may still be protected against a utility shut-off. In Pennsylvania, public utilities are required to notify the landlord of a proposed shut-off. The landlord must then send the utility company the names and addresses of any

tenants that would be affected. Next, the utility company is required to provide tenants with 30 days notice of a proposed termination of service and of the tenant's right to continued service by payment of an amount equal to the most recent 30-day billing. If this is paid before the proposed date, services will not be terminated. If it is paid after the termination, services must be restored. Thereafter, tenants would receive the utility bills every month. It is not required that the bills be placed in your name.

If the tenant(s) have paid the bill when it the landlord's responsibility under the lease, the amount paid may be deducted from rental payments. (See **Repair and deduct**, p. 19.)

What should I do when I need repairs in my apartment or house?

There are seven main things you may be able to do:

- Move out.
- Have the problem repaired and subtract the cost from your rent.
- Contact local code or health officials.
- Sue to get back part of the rent that you have paid plus other expenses, and/or reimbursement for property damaged or destroyed.
- Withhold rent until the landlord makes repairs.
- Get a court order to require the landlord make the repairs.
- Recover payment (damages) for severe emotional suffering; or,
- Use a combination of these remedies.

Move out

- 1) If a landlord does not provide certain things for you that cause a serious problem, such as a working sewer system, heat in cold weather, or drinkable water, he may be violating the "warranty of habitability"; (see p.5). In these situations, you have the right to end your lease and move out.
- 2) Do not just leave. If you plan to move out, you should first write to your landlord, tell him about your problems, and ask him to fix the problems within a reasonable period of time. Try to be detailed in your letter; explain how the problem affects your family's home, health, cleanliness, etc. Keep a copy of your letter.

- 3) If he does not fix the problems within a reasonable time, go ahead and plan to move.
- 4) When you know when you will be moving out, write to him again, telling him that because he did not fix these problems, that he has violated the warranty of habitability, and as a result, you are moving out. You may also want to request your security deposit back, and some back rent for the time the conditions were bad.
- 5) It is probably a good idea to wait until the day you are leaving to send the landlord the letter. (See sample letters at pp. 42-46.)

Repair and deduct

- 1) Repair and Deduct may be a good solution for you if:
 - a) you don't want to move,
 - b) your problem is something specific that a repairperson can fix, and
 - c) the repairs will cost less than what you pay for your monthly rent.
- 2) Before you can get the problem repaired, your first step is to write to your landlord, tell him about your problem(s), and ask him to fix it. Do not skip this step— you must tell him in writing, even if you've already told him before about the problem. (See sample repair and deduct letters, pp 44 and 45.)
- 3) Be detailed about the problem— explain how it affects your family's home, health, safety, cleanliness, etc. If you can, also take pictures and/or videos of the problem.
- 4) Always keep copies of all your letters.
- 5) Give your landlord a reasonable time to do the repairs.
- 6) If he doesn't fix it, you need to write to him again. Tell him that because he has not fixed your problem, you plan to get it fixed yourself and to subtract the cost from your rent, if he does not repair it immediately.
- 7) If the landlord doesn't do anything within a day or two, call around and get about three written estimates of how much the repairs will cost. Choose the most reasonably priced company. Remember, you can only use repair and deduct if you can pay for the repairs.
- 8) Get the repairs done. Get a receipt. Then, when it is time to pay rent, write to your landlord again, telling him that you got the repairs done, and how much money you spent. Give him a copy of your receipt, and copies of the other estimates you had gotten, so he can see you spent a fair amount. Subtract the amount you paid for repairs from your usual rent amount, and only pay your landlord the difference.

- 9) **Important: only spend the money on the repairs, not on anything else.** The next month, you must go back to paying your usual amount.
- 10) Before you get the repairs done, take pictures or video and make sure that other people have seen the problem and its effects, so that if you ever need to go to court, you'll have proof that the problem was serious. In addition, if you can get the repair people to describe the problems in their written estimates or receipts, that could be helpful. Contact local code or health officials and report problems.

Lawsuit for back rent and other expenses

- 1) Suing for back rent and other expenses may be a good solution for you if you've already spent your own money to get things repaired, or if you're moving out and think you deserve some back rent because the home had serious problems. You can sue whether you are staying in the home or moving out.
- 2) Before bringing this kind of lawsuit, you should make sure that you've notified the landlord of the problems (in writing), and given him a reasonable chance to fix them, but he hasn't.
- 3) This solution means going to the Magisterial District Justice and filling out lawsuit papers. You can get more information on how to do this from NPLS or a private attorney.
- 4) There are many things you can ask for in this lawsuit. For example, you can request:
- a) Reimbursement for any money you've spent to repair the problem, or to repair damages to your property, or to make your place more livable under the circumstances;
 - b) Refund for part or all of your back rent paid, for the time period when the problem made your home uninhabitable (how much depends on how bad it was or is);
 - c) Reimbursement for your extra utility costs, if your utility bills were unusually high because of the problem;
 - d) Reimbursement for any money you spent if you ever had to pay for temporary housing because of the bad conditions;
 - e) Reimbursement if you suffered some emotional or physical harm because of the bad conditions caused by the landlord or his failure to fix the problem; and/or,
 - f) Reimbursement for your property damaged or destroyed because of the bad conditions (spoiled food, damaged clothing, or furniture).
- 5) Bring to court any photographs which show the bad conditions. It would also be helpful for other people who have seen the bad conditions to come to your hearing

and testify for you. If your local Housing Code Enforcement Office knows how bad the problems are, get them to testify at the hearing or make sure to bring their reports with you. (See sample letter, p.42.)

- 6) What you need to do at the hearing is prove to the court that:
 - a) these problems seriously interfered with your health, safety, cleanliness, etc.;
 - b) these problems were your landlord's fault or responsibility, and,
 - c) the landlord didn't fix the problems within a reasonable time after you told him about them.
- 7) Bring to court all receipts for your expenses, back rent, utility bills, and for anything else you are asking the Court to give you for having to deal with this problem.

Withholding rent

- 1) Withholding rent may be appropriate for you only if:
 - a) you cannot afford to pay for the repairs, and
 - b) your problems are so serious that your home is uninhabitable.
 - c) But be careful, because it is often not the most appropriate choice, and many courts do not look favorably on it. In addition, while you are withholding rent you should be looking for another place to live, because the landlord may then try to evict you.
- 2) Examples of what would **not** be appropriate problems for withholding rent are torn carpeting, leaky faucets, toilets that won't stop running, cracked walls, or a small or minor amount of bugs or rodents. Examples of what might be appropriate are no hot water, no heat in the winter, dangerous conditions in the structure of your home, a seriously malfunctioning sewage system, or an extreme amount of rodent or other infestation.
- 3) The safest way to withhold rent to try to get the landlord to improve conditions is to put the rent money into a separate bank account from your other funds. This way, if your landlord tries to evict you or sue you for the money, you can prove to the court that you were not using the money for another purpose.
- 4) The first step in this process would be to write to your landlord, tell him about your problem(s), and ask him to fix it. Do not skip this step— you must tell him in writing, even if you've already told him before about the problem.

- 5) Be detailed about the problem— explain how seriously it affects your family’s home, life, health, safety, cleanliness, etc. If you can, also take pictures of the problem.
- 6) Always keep copies of all your letters.
- 7) Next, give your landlord a reasonable time to do the repairs.
- 8) If he doesn’t fix the problem, you need to write to him again. Tell him that because he has not fixed your problem, your home is uninhabitable, and therefore, you intend to withhold your rent. Tell him that you will begin paying rent again after he fulfills his obligations as a landlord. (See sample letter at pp 44 - 45.)
- 9) **Do not spend this money.** (To learn how to spend your money to make repairs, see “Repair and Deduct” above, p 17). Put the money into a **separate** account. You can ask your local bank how to do this. This way, if your landlord takes you to court and wins a judgment against you, you will have the money to pay it back.

Court order - specific performance

“Specific performance,” in these situations, means getting a court to *order* a landlord make necessary repairs to an apartment. This sounds like a great solution, but unfortunately it’s very difficult to get a court to look over a landlord’s shoulder and make sure he does something he may not want to do. As a result, courts will most often choose not to do this. Specific performance is something that must be ordered by a Common Pleas Court, not the Magisterial District Judge. As a result, you should contact a lawyer if you have questions about whether this is possible in your case.

Recover payment (damages) for severe emotional suffering

If you can prove that your landlord, by failing to make repairs of very serious defects that create a danger to your health or safety, has **intentionally or recklessly** caused you or your family to suffer severe emotional suffering, you **may** be able to recover money damages from your landlord to pay for this severe emotional distress. The landlord’s conduct in failing to repair, usually over a long period of time, despite notice from you of the defects, must be **“extreme and outrageous”**. Your landlord must have **intentionally and recklessly** caused you serious emotional distress, and the emotional suffering you experience must be **severe**. It would be best to contact an attorney if you wish to bring such a lawsuit for severe emotional distress.

Combination of remedies

You may choose a combination of remedies. Any one of the previous remedies, by itself, may not be totally suitable for you. Your situation may allow you to use a combination of different remedies.

Suppose, for example, that for the past 2 months you have paid the full rent but have had no hot water. You have told the landlord about it but he has not made the repairs in a reasonable length of time. In the meantime, you have found another place to live and plan to move there next month. What can you do? You may choose to:

- request that a part of the past 2 months' rent be returned to you;
- reduce part of this month's rent; and
- move out next month without being responsible for future rent to your present landlord.

You should be aware that none of these options are perfect or easy winners. Any of them could cause your landlord to try to evict you. However, if your landlord is truly not providing you with safe, sanitary conditions, he cannot evict you solely to get back at you. If you do get an eviction notice, call NPLS or a private lawyer for further assistance.

Leaving the apartment

Giving notice

As the end of the lease approaches, you need to discuss the renewal or termination of the lease. If you want to move out of your apartment or house, you need to give notice to your landlord. Check your lease to see how much notice is needed and how it must be delivered. Your notice to the landlord should be in writing and sent by certified mail or delivered in person.

Moving out

Follow the moving out procedures in your lease to make sure that your responsibilities for the apartment are finished before you leave.

- Give your landlord - in writing - your new address or a forwarding address for receiving mail.
- Remove all your belongings and trash.
- Clean the apartment.
- Return the apartment to the way it was when you moved in.
- Walk through the apartment and review the checklist and photos of when you moved in with the landlord. Have the landlord sign the checklist.
- Take new photos if there have been changes.
- Lock all doors and windows. Then return your keys to the landlord.

Your security deposit

Purpose

The security deposit is the money the tenant gives the landlord when first renting the apartment or house. It is intended to cover damages that might be caused by the tenant during the term of the lease.

Amount of your deposit.

In Pennsylvania, the security deposit can be up to two months of rent in the first year. The amount of the security deposit paid to the landlord should be written on the lease, and you should get a receipt for the security deposit for your records. **Never give your landlord money without getting a receipt!**

Bank account and interest

If the security deposit is over \$100, your landlord must put it in a bank account after the second year and give you written notice of the name and address of the bank and the amount of the deposit. Interest on the security deposit during the first year belongs to the landlord. After the first year, the tenant is entitled to the interest on a security deposit over \$100.

Getting your deposit back

One of the main concerns for a tenant who is leaving an apartment is to get back the full security deposit. When the lease is ended or when you give the apartment back to the landlord you must give him your address in writing and surrender your keys to the apartment.

In Pennsylvania, a landlord must do one of the following within thirty (30) days of the end of the lease or the surrender of the apartment (whichever occurs first):

- return the full security deposit, or
- give the tenant an itemized list of damages and return whatever security deposit is left after damages.

If you fail to give the landlord your new address in writing the landlord is not responsible for returning the deposit within thirty (30) days. If the itemized list of damages is not given in writing, the landlord gives up his right to sue the tenant for damages to the unit.

Suing for your deposit

Pennsylvania law allows tenants to sue for twice the amount of their security deposit if the landlord improperly refuses to return the money. You can sue your landlord in the

magisterial district justice (MDJ) court for the area where your apartment is located.

The MDJ will help you fill out the complaint. You'll have to pay the filing costs unless you are very poor in which case you can ask the court to waive the filing fees. Your landlord may be ordered to pay these costs back to you. If the landlord does not return the security deposit within 30 days, the tenant can sue for double the amount withheld as damages, but only if the tenant gave the landlord the forwarding address in writing at the end of the lease. If this is the case, be sure to say that you want to sue your landlord for double damages (ask for twice the amount of the security deposit).

The MDJ will set up hearing, give you a copy of your complaint, and serve a copy on your landlord.

Bring with you, to the hearing the following:

- 1) all rent receipts (or canceled checks),
- 2) security deposit receipt (or canceled check),
- 3) list of damages when you moved in,
- 4) pictures or videos,
- 5) witnesses whose saw you pay the deposit and/or who know the condition of your apartment when you moved in and moved out, and
- 6) a copy of the letter that you sent to the landlord, giving him your forwarding address.

At the hearing, you will have to prove that:

- 1) you paid all your rent,
- 2) you paid a security deposit,
- 3) you did not cause any damages, and that you left the apartment in the condition it was in when you moved in, and
- 4) you gave your landlord written notice of your forwarding address.

It is always a good idea to talk to a lawyer before suing for your security deposit. A lawyer can help you decide if you have a good case. If you cannot afford a lawyer, you may want to look at the NPLS video on how to represent yourself in MDJ court. This video is available in every NPLS office, many public libraries, and other locations.

Call the local MDJ office, NPLS, or the local lawyer referral service for more information on recovering your security deposit (See *Getting Help:Legal* insert.)

The eviction process

The eviction process is the only **legal** means by which a landlord can get a tenant to leave their home. Landlords usually file eviction actions because of a violation of the lease terms, such as non-payment of rent or damages done by tenants.

Notice to quit

Generally, an eviction process starts when the landlord serves the tenant a written eviction notice, called a Notice to Quit, stating that the landlord wants the tenant to leave the apartment or home.

These notices usually give the tenant between 10 and 30 days to leave the home. Some leases will waive a tenant's right to this notice, but such a waiver may not be enforceable if it is not clear and in plain language. Review your lease to find if there is a clause about notices required for eviction.

| If you are being evicted for: | The Notice must give you: |
|---|----------------------------------|
| Non-payment of rent | 10 days |
| Certain drug-related criminal activity in or near your apartment by you, household members or guests | 10 days |
| Breach of lease other than nonpayment of rent | 15 days |
| End of lease (one year or less) | 15 days |
| End of lease (more than one year) | 30 days |
| Mobile home park tenant | |
| Failure to pay between April 1 and August 1 | 15 days |
| Failure to pay between September 1 and March 31 | 30 days |

Special circumstances

The following are common occurrences and questions that may come after receiving an eviction notice or after a MDJ's decision.

My landlord has threatened to lock me out. Can the landlord do so?

The landlord is not allowed to lock you out of your apartment even if you are behind in your rent. The landlord must follow the eviction procedure in this booklet if he wants the tenant to vacate the apartment or house. The landlord also cannot turn off services to the apartment (for example, water, electricity, or heat). If your landlord has threatened to lock you out, you should carry a copy of your lease with you, if you have one, or copies of any current utility bills as evidence that you live in the apartment or home. If your landlord does lock you out or turns off services, contact NPLS or a private attorney immediately for assistance. (See Getting Help insert). You may also wish to contact the local police department, as they will sometimes intervene with the landlord to get you back into the apartment at once.

My situation is special, so I can't be evicted, right?

Wrong. If you don't pay your rent on time or violate your lease in some way, the landlord can file an eviction action against you. It doesn't matter if you are a senior citizen, disabled, or you have several children, you have the same responsibilities as other tenants. If you have an unexpected loss of income or another reasonable explanation why you fell behind in the rent, the MDJ may allow you to remain in the unit if you pay the money judgment in full. (See Possession Granted if Money Judgment Not Satisfied ("Pay and Stay") at page 31.)

I do not have anywhere to go. What should I do?

You need to find a place for both you and your belongings. You should not leave your possessions behind. Your landlord must safeguard your possessions but not for an unlimited amount of time and he can charge you a storage fee. However, a landlord cannot hold your possessions until you pay the rent you owe. If this occurs, then contact NPLS or a private attorney immediately for assistance. (See Getting Help insert). If you cannot find a new place to live, then contact family or friends. You should also contact local shelters, although they usually have long waiting lists (See Getting Help insert). You may also call hotels for a temporary place to stay.

| Landlord-Tenant eviction process & time table for legal proceedings | |
|---|--|
| MDJ schedules hearing | 7-15 days after landlord files complaint |
| MDJ will enter judgment at conclusion of the hearing or within... | 3 days |
| Order of Possession is obtained by the Landlord.. | After the 10th day following judgment |
| Office executing the 10 days order of possession can evict the occupants if they remain on the premises more than... | 10 days after service of order |
| Appeal to Court of Common Pleas | |
| If judgment affects delivery of possession of residential property, appeal within... | 10 days after judgment |
| If judgment is for money, or possession of non-residential property, appeal within. | 30 days after judgment |

The Magisterial District Judge eviction process

What is a ‘Magisterial District Judge’?

A Magisterial District Judge (MDJ) is a locally elected official who can decide small civil lawsuits such as landlord-tenant matters. MDJ’s are also called magistrates or district justices.

A complaint is filed with the MDJ and a hearing is scheduled.

The landlord or tenant can file a civil complaint with the MDJ. The landlord may file a landlord-tenant action if he is seeking eviction of the tenant and possession of the property. The tenant will receive notification of the complaint and will be given a hearing date within 7 to 15 days of the filing date.

Should I go to the hearing?

Yes! If you fail to appear at the hearing, the MDJ will decide in favor of the landlord. The hearing gives you a chance to present your “defense” or “cross-complaint” against your landlord. You should go even if you made an agreement with your landlord or your

landlord said the hearing was canceled. If you cannot go on the scheduled date of the hearing, call the MDJ and ask if the hearing can be rescheduled. The MDJ should grant your request if you have good cause.

Do I need an attorney?

No. Lawyers are not required during the hearing although it may be to your benefit to have a lawyer present at the hearing.

What happens at the hearing?

The MDJ calls the hearing to order.

The party filing the complaint, or plaintiff, (landlord in an eviction case) presents evidence and testimony and can bring additional witnesses. After each witness, the defendant (tenant in an eviction case) is given the opportunity to question the witness.

The tenant presents evidence and witnesses in defense and presents any evidence or witnesses for cross-complaints. After each of the tenant's witnesses, the landlord is given the opportunity to question the witness.

The MDJ listens to all the evidence both parties have to present and makes a decision. The MDJ could make a ruling that day or may take several days to make a decision, which each party receives in the mail.

The MDJ is in charge of the hearing and must be treated with respect. If the MDJ interrupts to ask a question or give a ruling, listen carefully and respond if the questions are directed to you. Do not interrupt the MDJ, or be discourteous or uncooperative.

What is a “defense”?

A defense is your reason(s) why the landlord should not be allowed to evict you. Some common defenses are that the landlord did not allow you enough, or any, written notice to vacate the apartment, the apartment had a many problems due to the landlord's failure to make repairs, or the landlord's reasons for wanting to evict you are untrue.

You should bring any paperwork you have that is relevant to your case. For example, if you are being evicted for non-payment of rent and have a written agreement with the landlord that you could pay in installments, then you should bring that agreement to the hearing. Likewise, if you didn't pay the rent because of poor conditions in the apartment, you should bring pictures of those conditions, copies of the letters you sent to the landlord about the problems and proof that the rent money is in an escrow account. These items will be helpful to the MDJ in making a decision in the matter.

What is a “cross-complaint”?

You also have the right to file a cross-complaint if you believe the landlord owes you any money. For instance, if your property was damaged because of a water leak or other problems in the apartment, you may have a claim against the landlord for money damages. You must file a cross-complaint before the hearing. You file a cross-complaint at the Magisterial District Court where the landlord's complaint was filed. Although there is no filing fee for such a complaint, you will have to pay to have the complaint served on the opposing party. You can ask the Judge to serve it by certified or registered mail or in person. The fee for service will depend on how it is served. If you think you have reason to file a cross-complaint, you should call NPLS or a private attorney for advice.

How should I prepare for my hearing?

If you have a lawyer, she will go over the information below and assist you to present the information at the hearing rather than your doing this on your own. If you do not have an attorney, you should practice saying your side of the case. Make a written outline or checklist to use at the hearing. Be brief and to the point. Be ready to explain each item of evidence such as photographs or receipts and when the actions you took occurred. It is important that you arrive on time for the hearing and that you dress appropriately, as you might for church or to attend a job interview.

After the hearing

What happens after the hearing?

Within 3 days of the hearing, the MDJ will issue a written decision called a Notice of Judgment. If the judgment is in your favor, the landlord is required to do what the MDJ ordered. Normally, this means that the landlord cannot evict you from the apartment. If the MDJ finds in favor of the landlord, the judgment will be entered against you. There are three types of judgments that can be issued against a tenant:

- Possession Granted
- Possession Granted if Money Judgment Not Satisfied
- Possession NOT granted but money judgment awarded

The Notice will show you what type of judgment was issued against you. You or the landlord has the right to file an appeal to the Court of Common Pleas in the same county as the MDJ's office. Your appeal rights are discussed in more detail at page 32.

Is there any way I can prevent the eviction?

Possession granted unless money judgment satisfied (“pay and stay”)

If a judgment is for **Possession Granted if Money Judgment Not Satisfied** (known as “pay and stay”) and the money owed is paid in full anytime prior to the eviction date, you will be able to avoid an eviction and remain in the home. If the landlord is paid in full, including judgment costs, within ten days of the judgment, no eviction will be scheduled. If you do not pay within ten days or file an appeal and pay a bond if required, the landlord may request an Order for Possession. (See Appeal of MDJ’s judgment at p. 32.) An eviction date will be scheduled ten days after the Order of Possession is posted on your door by a constable. Up to and including that date, you can pay the judgment in full to avoid the eviction.

If you pay before the eviction date, you should make arrangements with the landlord and the constable and keep a receipt for proof of payment. If you plan to pay on the date of the eviction, you will have to pay the constable directly. Make sure you have the money owed in cash. If you try to pay by check, the constable will not take the money and the eviction will proceed as scheduled.

What happens if the judgment is possession granted, or I can’t pay a money judgment against me before the eviction?

If the judgment is for **Possession Granted**, you will have to leave the home on the scheduled eviction date even if you pay all monies owed in full. In these cases, whether or not you have the money to pay does not make a difference. If you disagree with the decision and want to stay in the apartment, you must file an appeal to the Court of Common Pleas within ten days of the judgment date and post a bond, if required. (See Appeal of MDJ’s judgment at p. 32.)

If you are not planning to appeal, you should make plans to move out as soon as possible. If you can’t physically be out before the scheduled eviction date, then at least move all your belongings out of the rental unit. Remember, you will only have minutes to vacate when the constable arrives. The fewer things you have to gather, the easier it will be for you to leave.

If you leave the home before the scheduled eviction date, make sure you contact the landlord to let them know the apartment will be vacant and return the keys.

Order of Possession

This action can be taken by the landlord to seize your apartment. After the 10-day appeal period has passed, the landlord can file for an Order of Possession. This Order requires the tenant to vacate the home within 10 days of the date of service by the constable. Service will be either by hand delivery or by posting on your door if nobody is home to receive the notice. If the tenant does not vacate, the constable will come to the home with the landlord on the eleventh day and forcibly evict the tenant, locking

the apartment. If the constable comes to evict, he will only give the tenant about 15 minutes to get out of the apartment with any belongings you can carry.

What happens if the landlord gets an order of possession but a constable never comes to evict me?

Sometimes, a landlord will get an Order of Possession against a tenant, but, for some reason, will not execute on this order. This means that the constable is never notified to come and make you move. Generally, this happens when the landlord and tenant work out some kind of payment agreement for the money owed. If you receive a judgment against you and then work out a payment arrangement with the landlord, you should make sure the payment agreement is in writing and that the landlord agrees to withdraw the order.

A landlord may request the re-issuance of an Order of Possession. The request generally must be made within 120 days of the judgment date.

Appeal of the MDJ's judgment

If you want to appeal a judgment and remain in the apartment, you must do so within 10 days after the judgment date. All appeals must be filed in the Prothonotary's office in the county courthouse on forms you can get from the Prothonotary and, in some cases, from the MDJ.

If you follow the correct procedures, you will be granted a supersedeas, which allows you to remain in your apartment during the appeal. What you have to do in order to receive the supersedeas depends upon your income.

- If your income is **above** the Federal Poverty Income Guidelines¹, you will be required to pay the filing fee as well as a certain amount of money as bond. This bond is either three (3) months' rent, or the judgment amount, whichever is less.
- If your income is **below** the Federal Poverty Guidelines, you will not be required to pay the filing fee. If you owe rent for the month in which you file the appeal, you are required to pay one third of the month's rent at the time you appeal and the remaining two thirds within 20 days. You will be required to sign an affidavit that your income is below the guidelines and disclose your household income and expenses on a form provided by the court.

In either case, you must continue to pay the rent each month as it becomes due to the Prothonotary's office of the local county Court of Common Pleas where you filed the appeal. An appeal is a complicated legal action that requires you to file legal papers. If you do not follow the correct procedures, your landlord may be able to proceed with the eviction despite your appeal. You should contact NPLS or a private attorney for advice before filing an appeal.

¹ The Federal Poverty Income Guidelines change each year. In 2009, the monthly guidelines were \$902 for a household of one person; \$1,214 for two; \$1,526 for three. The guidelines increase by \$312 a month for each additional person. The Prothonotary will have the current guidelines

If you do not wish to remain in the apartment and want to appeal the money judgment only, you will have 30 days to file an appeal at the local county Court of Common Pleas. This procedure also requires a filing fee, but is somewhat a simpler process than if you want to stay in the apartment during the appeal period. If you plan to file this appeal, you should contact NPLS or a private attorney for advice. (See Getting Help insert.)

What happens if there is a judgment against me?

A judgment will stay on your record until you pay it in full. It can affect your credit rating, as well as your ability to obtain private or subsidized housing. It is a good idea to pay a judgment as soon as possible to avoid any future problems. If you can't pay the judgment in full, you can arrange a payment agreement with the MDJ's office.

Can the landlord sell my belongings?

If you have a judgment against you that you don't pay, the landlord has the right to file for a levy on your property by requesting an Order of Execution. This allows the landlord to collect his money through a sale of your personal property. This order can be requested 30 days after the judgment date or anytime after that. It can be reissued repeatedly within 5 years of the judgment date.

The constable, or sheriff, will serve you a copy of the order and make a list of your property to be sold (called a "levy"). Once you receive this notice, you are **not** allowed to sell or dispose of the personal property, as it must be available to satisfy the levy. The constable will then schedule a sale of your property and give you notice of the date.

Can I stop the sale of my belongings?

You can stop or put off a sale in several ways. You can file an appeal or objection to the levy (sale of your property). You can also file a "Claim for Exemption" at the MDJ's office. The law allows you to keep, as exempt, up to \$300 worth of property, or you can take \$300 in cash from the proceeds of the sale instead. If you think all the property the landlord wants to sell is equal to or less than \$300, the sale will be canceled and there will be a hearing by the MDJ to determine the value of your property. If the MDJ decides your property is worth more than \$300, the sale will be rescheduled. (The exemption is \$300 for an individual; \$600 for a married couple.)

If the property levied on by the constable or sheriff is owned by someone else, or by you and another party, the other party can file a claim for exemption and try to prove to the sheriff that the property should not be sold because it doesn't belong to you.

You can also stop the sale by paying the full amount of the judgment. You should make payment through the constable or MDJ office, not directly to the landlord. Also, you may consider filing for bankruptcy. You will need to consult with an attorney about this

option. It may or may not be a good alternative for you. If you receive an Order of Execution, you should call NPLS or a private attorney to discuss your options. (See Getting Help insert.)

Can the landlord attach my wages from employment to satisfy the money judgment against me?

Yes. The landlord can file in court to have your wages attached to pay the judgment. This is a serious action. You should receive notice of this action that allows the landlord to take money directly out of your paycheck to satisfy the judgment. The landlord must follow all applicable state and local rules for wage attachment. The wage attachment may not be for more than 10% of your wages, and the attachment must not cause your income to fall below certain poverty guidelines. If you receive notice of a wage attachment, you should call NPLS or a private attorney for advice.

Subsidized housing

There are many different kinds of subsidized housing. If you apply to the local city or county housing authority, you may be eligible for conventional public housing (the Housing Authority is your landlord) or the Housing Choice Voucher Program (formerly called “Section 8”).

There are also housing developments that are subsidized as long as the tenant remains in the unit and high-rise buildings that accept senior citizens and/or the disabled. For each of these programs, the tenant’s rent is approximately 30% of the monthly household income, and therefore it is necessary to report **all** income and changes in family composition.

For many tenants, having subsidized housing allows them to afford the rent and avoid homelessness. Therefore, it is important to understand the rules and regulations to avoid eviction or loss of the subsidy. A tenant who is evicted from public housing or whose voucher is terminated may be ineligible to reapply for assistance for three to five years.

Public housing eviction process

You can be evicted from public housing by the housing authority for “good cause “. “Good cause” means serious or repeated violation of the lease. You are allowed to have a lawyer or representative present for conferences or hearings with the housing authority.

Notice of eviction from housing authority

You can be evicted from conventional public housing for non-payment of rent and/or violation of the lease terms. Under the housing regulations, the housing authority must

first send you a Notice of Proposed Termination that explains why you are being evicted. The housing authority will deliver the eviction notice to any adult of the household, or send it by mail.

What should do when I receive an eviction notice?

Informal settlement conference

You are entitled to appeal the proposed termination by requesting an informal settlement conference with the housing authority. This conference gives you a chance to try to resolve the problem with the housing authority. Generally, you have 10 days from the date of the Notice of Termination to request the informal conference.

If you receive a Notice of Termination, you should **immediately** submit a written request with the housing authority for an informal settlement conference. You should call NPLS or a private attorney for assistance.

Can I review my file before the informal settlement conference?

YES. You have that right and should review all documents and records that are important for your conference. The housing authority must make them available to you. If you want copies of any records in your file, you may have to pay for the copies.

What happens after the informal settlement conference?

You will be notified in writing of the results of the hearing. If you are satisfied with the decision and the problem is resolved, your lease will continue. If you disagree with the decision, you can appeal by requesting a formal hearing.

Formal hearing

You must give a written request for a formal hearing to the main or administrative office of the Housing Authority generally within 15 days of the decision of the informal settlement conference. The authority then schedules a formal hearing on the grievance at the earliest possible time.

Your housing manager and witnesses may be present at the hearing. This conference is held before a Hearing Officer who listens to both the tenant and housing authority's positions before making a decision in the matter. It is beneficial to have a lawyer present. Contact NPLS or the local lawyer referral service. (See Getting Help insert.)

What happens after the formal hearing?

The Hearing Officer will send you a written decision within 30 days after the hearing. The housing authority must follow the decision of the Hearing Officer. If the Hearing

Officer finds in favor of the housing authority, the eviction process will continue. In these cases, the housing authority will file a landlord/tenant complaint to begin the eviction process with the court. (See Eviction Process, p. 26.)

Housing choice voucher eviction process

Housing Choice Voucher Program

A tenant in the Housing Choice Voucher Program receives a voucher to be utilized with a private landlord. The landlord must agree to accept the tenant and be willing to participate in the program. The housing voucher is rental assistance from the housing authority, which pays part or most of your monthly rent. When choosing a landlord and apartment in this program, refer to *Looking for an apartment or house to rent*, p.8.

With this program, you may lose your housing voucher in two ways:

- 1) you can be physically evicted from your home through an eviction action filed by your landlord for violation of the lease, and/or
- 2) you can lose your housing subsidy for violation of the housing authority's rules.

A landlord may evict a tenant with a voucher for serious or repeated violations of the lease or other good cause, including nonpayment of the rent, during the first year of the lease. After the first year, either the landlord or tenant may end the lease by giving proper notice to the other party. The notice must be sent to the housing authority and the tenant then obtains a voucher to move to a new unit.

If I am evicted from my apartment, can I lose my housing choice voucher?

Yes. If your landlord evicts you, you will most likely lose your housing subsidy. The housing authority should be sent copies of any actions filed in court. If the action results in eviction, you will be sent a written notice that the housing assistance is terminated. Once your housing assistance is terminated, you are no longer eligible for a voucher or any other assistance from the housing authority.

Sometimes, you can work out a resolution with the housing authority to preserve your voucher, especially if the landlord has failed to comply with proper procedure. If you receive an eviction notice from your landlord, you should call NPLS or a private attorney for assistance.

If the landlord files an eviction action against me, can the housing authority immediately stop making payments or refuse to issue a new certificate to move?

No. A landlord's decision to evict is not grounds to end your eligibility or stop making the rental payments. The housing authority must continue to pay their portion of the rent until the tenant is evicted.

What happens if the housing authority wants to terminate my housing choice voucher?

If you do not abide by the housing authority's rules, they may take action to terminate your subsidy. You will receive notice of this proposed action in the mail. Your subsidy could be terminated for one of the following reasons:

- You committed fraud, by failing to report your correct income or family composition.
- You, your family, or guests are involved in drug or criminal activity.
- You did not pay a current debt owed to the Housing Authority as part of an agreement.
- You violated an important rule of the program, such as failing to submit information for re-certification.

You have the right to appeal this action by requesting an informal hearing. The subsidy continues until after the hearing and a decision is made. If the subsidy is terminated and you wish to remain in the unit (and your landlord allows it), you will be responsible to pay the full amount of the rent.

Mobile homes

The following information applies to owners of mobile homes who are renting lots, not to renters of mobile homes. For information about your rights as a tenant in a mobile home, see the other sections in this handbook.

Park rules and regulations.

The owner of the mobile home park (where there is space for at least three mobile homes), may set out reasonable rules and regulations for the park, but these rules must be written into your lease and given to you. If you do not have a written lease, the owner must give you a copy of the rules. The owner must also post the rules in plain view.

Evictions.

You can only be evicted from a mobile home park for the following reasons:

- 1) nonpayment of rent,
- 2) violating the rules of the mobile home park more than once in a six-month period,

- 3) if the park closes, or
- 4) changes its use.

You cannot be forced to move without written notice and hearing. The notice must state the reasons for which you are being asked to move.

If you are being evicted for non-payment of rent, a park owner must give you a 30 day eviction notice (15 days notice between April 1 and August 31) before eviction proceedings can be started against you.

If your lease is for a year or more, you are entitled to 90 days notice, if you are being evicted for a breach of the lease or the end of the term. If your lease is for less than one year, and you are being evicted for these reasons, you are entitled to 30 days notice.

If you are being evicted for violating the park rules or the lease, the notice must state exactly what you did to violate the rules. If you only violate the rules once you cannot be evicted, but you can be evicted for a second violation if the owner gives you the proper notice and enforces the rules against others in the park.

Other facts.

You are allowed to buy goods or services from whomever you choose, and the park owner cannot stop you from doing so.

The park owner cannot prevent you from selling your mobile home, and cannot claim any fee for the sale of the home unless you agree.

The park owner cannot charge you a fee for overnight visitors or guests visiting your mobile home.

Inspection Checklists

| Kitchen (check for) | Excellent | Shows Wear | Needs Repair |
|--|-----------|------------|--------------|
| Ceiling (Cracks, Peeling Paint, Holes) | | | |
| Walls (Cracks, Peeling Paint, Holes) | | | |
| Floors (Cracks, Holes, Uneven) | | | |
| Windows (Broken/Cracked Glass & Frame) | | | |
| Outlets (Working?, How many?) | | | |

| | | | |
|---|--|--|--|
| Light Fixtures (Working?) | | | |
| Heating Vents (Working?) | | | |
| Stove (Gas/Electric, Works?, Clean?) | | | |
| Refrigerator (Frost-Free, Works?, Clean?, Age of?) | | | |
| Freezer (Frost-Free, Works?, Clean?, Age of?) | | | |
| Sink/Faucet (Works?, Leaks/Pressure) | | | |
| Cabinets (Functional) | | | |
| Dishwasher (Working?) | | | |
| Garbage Disposal (Working?) | | | |

NOTE: Make a list of all items that need to be fixed and request landlord to repair them before signing the lease and moving in. Check to make sure all items work properly, such as sinks, toilets, outlets, lights, appliances, locks, furnace, air conditioner, etc. This will help to prevent problems with the landlord. Is the apartment or house accessible if you have a disability?

| Bathroom (check for) | Excellent | Shows Wear | Needs Repair |
|--|------------------|-------------------|---------------------|
| Ceiling (Cracks, Peeling Paint, Holes) | | | |
| Walls (Cracks, Peeling Paint, Holes) | | | |
| Floors (Cracks, Holes, Uneven) | | | |
| Windows (Broken/Cracked Glass & Frame) | | | |
| Outlets (Working?, How many?) | | | |
| Light Fixtures (Working?) | | | |
| Heating Vents (Working?) | | | |
| Toilet (Working?, Leaks?) | | | |
| Shower/Bathtub (Works, Cracks, Peeling Paint) | | | |
| Sink/Faucet (Works?, Leaks/Pressure) | | | |
| Ceiling Fan (Works?, Clean?) | | | |

| Living Room (check for) | Excellent | Shows Wear | Needs Repair |
|---|-----------|------------|--------------|
| Ceiling (Cracks, Peeling Paint, Holes) | | | |
| Walls (Cracks, Peeling Paint, Holes) | | | |
| Floors (Cracks, Holes, Uneven) | | | |
| Windows (Broken/Cracked Glass & Frame) | | | |
| Outlets (Working?, How many?) | | | |
| Light Fixtures (Working?) | | | |
| Heating Vents (Working?) | | | |

| Bedroom 1 (check for) | Excellent | Shows Wear | Needs Repair |
|---|-----------|------------|--------------|
| Ceiling (Cracks, Peeling Paint, Holes) | | | |
| Walls (Cracks, Peeling Paint, Holes) | | | |
| Floors (Cracks, Holes, Uneven) | | | |
| Windows (Broken/Cracked Glass & Frame) | | | |
| Outlets (Working?, How many?) | | | |
| Light Fixtures (Working?) | | | |
| Heating Vents (Working?) | | | |
| Closet Space (Large enough?) | | | |

| Bedroom 2 (check for) | Excellent | Shows Wear | Needs Repair |
|---|-----------|------------|--------------|
| Ceiling (Cracks, Peeling Paint, Holes) | | | |
| Walls (Cracks, Peeling Paint, Holes) | | | |
| Floors (Cracks, Holes, Uneven) | | | |
| Windows (Broken/Cracked Glass & Frame) | | | |
| Outlets (Working?, How many?) | | | |
| Light Fixtures (Working?) | | | |
| Heating Vents (Working?) | | | |
| Closet Space (Large enough?) | | | |

| Other rooms (check for) | Excellent | Shows Wear | Needs Repair |
|---|-----------|------------|--------------|
| Ceiling (Cracks, Peeling Paint, Holes) | | | |
| Walls (Cracks, Peeling Paint, Holes) | | | |
| Floors (Cracks, Holes, Uneven) | | | |
| Windows (Broken/Cracked Glass & Frame) | | | |
| Outlets (Working?, How many?) | | | |
| Light Fixtures (Working?) | | | |
| Heating Vents (Working?) | | | |
| Closet Space (Large enough?) | | | |

| General / other (check for) | Excellent | Shows Wear | Needs Repair |
|------------------------------------|-----------|------------|--------------|
| Attic (Lighting, Insulation) | | | |
| Storage Space (Large enough?) | | | |
| Furnace (Working Gas/Oil, Age of?) | | | |
| Water Heater (Working, Age of?) | | | |
| Washer & Dryer (Working, Age of?) | | | |
| Thermostat (Working?, Access to?) | | | |
| Yard/Play Area (Large enough?) | | | |
| Fireplace (Functional?) | | | |

Utilities and other services - who pays? L = Landlord T = Tenant

| | | |
|-------------|----------|------------------|
| Electricity | Phone | Air Conditioning |
| Water | Cable TV | Recycling |
| Gas | Garbage | Snow Removal |
| Heat | Sewer | Pest Control |

Security and Safety (check for)

| | | |
|--|--------------------|-------------------------------|
| Electrical Wiring (Frayed wires?) | Smoke Detector(s) | Lighting (Outside) |
| Fuse box (Access to?) | Fire Extinguishers | Locked Mailbox |
| Door Locks | Fire Escape | Locked Windows |
| | Exit Signs | Parking Lot/On-Street Parking |
| Management Policies: Notice policy, rules for apartment, entering unit by landlord and repair person. | | |

| Lease checklist (if not in lease, ask landlord about these items) | |
|--|---|
| | Tenant(s) name |
| | How many people can live in the unit? |
| | Landlord's name |
| | Who pays for utilities? |
| | Full mailing address and unit number (tenant) |
| | How to renew lease? |
| | Monthly rent |
| | How to end/break lease? (move out procedure) |
| | Property maintenance procedures |
| | Due date for rent |
| | Security deposit - how much? |
| | Where to pay rent / who to pay? |
| | Lease period / length (beginning and ending date) |
| | Subletting allowed? (renting to others) |
| | Move-in procedures (cleaning, pest control, repairs, change of locks) |
| | Notice for entrance into rental unit by landlord/ repairman |
| | Notice to landlord about repairs needed to apartment |
| | Parking space (on or off street parking) |
| | Snow removal |
| | When are locks changed? |
| | Landlord's mailing address and phone number |

Sample Letters

First request for repairs to landlord

March 11, 2010

[Mr. or Ms. and your landlord's name and address]

Mr. John Smith
250 Main Street
Anytown, PA 19999

Dear Mr. Smith:

[Say who you are] We are your tenants at the Low Rise Apartments on Broad Street, under a lease agreement dated November 20, 2009.

[Tell what your problem is] We are having a problem with our toilet and sewer system. Every time we flush the toilet, raw sewage backs up into our sinks and the bathtub. It's really unhealthy and unsanitary, especially since we have an 8 month old infant. We request that you fix the problem by March 20, 2010.

Sincerely,

[Your (tenant's) name and address]

Susan and Fred Jones
150 Broad Street, Apt 15
Anytown, PA 19999

Move out letter after landlord fails to make critical repairs

March 21, 2010

[Mr. or Ms. and your landlord's name and address]

Mr. John Smith
250 Main Street
Anytown, PA 19999

Dear Mr. Smith:

[Say who you are] We are your tenants at the Low Rise Apartments on Broad Street, under a lease agreement dated November 20, 2009.

[Tell again what your problem is] On March 11, 2008, we wrote to you to tell you that our toilet and sewer system wasn't working right, and asked you to fix it by March 20, 2010. We told you that waste was backing up into the sinks and the bathtub of our apartment, which made the apartment very unhealthy and unsanitary.

[Say that he has not fixed the problem and say what you plan to do] Despite our letter requesting you to fix this problem, you have not repaired this problem. By not fixing it, you have broken the lease. We cannot continue to live in this apartment with this terrible situation, and are therefore ending our lease agreement, and leaving the apartment as of today, March 21, 2010.

[Optional – Other things you can ask for] We have paid you the rent for the month of March 2010, and we request that you return to us a partial refund of \$125.00 which is equal to our rental amount for the 10 days remaining in the month. We also understand that we are entitled to a refund of our rent payments from the date you broke the lease which was March 11, 2010. Therefore, we are requesting an additional partial refund of \$125 for the month of March.

Last, we request return of our security deposit of \$300 which we gave you at the beginning of the lease. We are also asking for the interest which has accrued from the security deposit. The total refund due to us is \$550 plus the amount of interest earned from the security deposit. Our forwarding address is: Susan and Fred Jones, 500 Pleasant Blvd. Niceplace, PA 29999.

Thank you for your attention and response to this request

Sincerely,

[Your (tenant's) name and address]

Susan and Fred Jones
150 Broad Street, Apt 15
Anytown, PA 19999

Letter to code enforcement or health department

March 27, 2010

[Mr. or Ms. and Code Enforcement/Health Department officer and address]

Mr. Henry Brook
Health Department
581 8th Avenue
Anytown, PA 19999

Dear Mr. Brook:

[Say who you are] We are tenants at Sunnydale Apartments on Maple Street, under a lease agreement dated February 1, 2010 to January 31, 2011.

[Describe your problem] Since March 18, 2010 our apartment has had a very serious cockroach problem. The problem is so bad that we can't keep much food in the apartment. Roaches even get into the refrigerator. The cockroaches are everywhere, including our beds. As a result, the apartment is disgusting to live in or sleep in.

[Say that the landlord has not fixed the problem] We wrote to our landlord about this problem on March 20 and March 27. Despite this, our landlord has not taken care of the problem or even tried to do so.

[Tell what you plan to do] We would like to file a complaint against our landlord so that this matter can be investigated by your agency. Our landlord is Mr. John Smith of the Sunnydale Apartments located at 250 Main Street, Anytown, PA 1999. Our landlord's phone number is (570) 999.9999.

Thank you for your assistance. If you need additional information please call us at (570) 888-8888

Sincerely,

[Your (tenant's) name and address]

Christine and Tom Miller
250 Main Street, Apt 25,
Anytown, PA 19999

Letter to landlord when tenant does repairs

March 27, 2010

[Mr. or Ms. and your landlord's name and address]

Mr. John Smith
Sunnydale Apartments
250 Main Street
Anytown, PA 19999

Dear Mr. Smith:

[Say who you are] We are tenants at Sunnysdale Apartments on Maple Street, under a lease agreement dated February 1, 2010.

[Describe your problem] Since March 18, 2010 our apartment has had a very serious cockroach problem. The problem is so bad that we can't keep much food in the apartment. Roaches even get into the refrigerator. The cockroaches are everywhere, including our beds. As a result, the apartment is disgusting to live in or sleep in.

[Say that the he has not fixed the problem] We wrote to you about this problem on March 20 and asked you to take care of this problem by March 27, while we were on vacation. Despite this, you have not taken care of the problem.

[Tell what you plan to do] This letter is notice to you that we plan to correct this roach problem ourselves. If you do not correct this problem by March 31, 2010, we are going to hire an exterminator to get rid of the roaches, and we will deduct the costs from our next rent payment.

Thank you for your cooperation.

Sincerely,

[Your (tenant's) name and address]
Christine and Tom Miller
250 Main Street, Apt 25,
Anytown, PA 19999

Letter to your landlord when doing repairs on your own, cost estimates and bill

April 1, 2010

[Mr. or Ms. and your landlord's name and address]

Mr. John Smith
Sunnysdale Apartments
250 Main Street
Anytown, PA 19999

Dear Mr. Smith:

[Say who you are] We are tenants at Sunnysdale Apartments on Maple Street, under a lease agreement dated February 1, 2010.

[Say that the he has not fixed the problem] On March 20 and 22, 2010 we told you in writing that there was a very serious cockroach problem in our apartment, which makes the place unsanitary and disgusting. You even saw how bad the situation is and yet you did nothing, nor did you contact us, which is a breach of the lease.

[Tell what you have done and how much it will cost] On March 31, 2010, we called three local exterminators and asked for estimates of the cost to exterminate our apartment. We have enclosed copies of these estimates. On April 1, 2010 we hired

RoachBusters, the lowest priced company, to come to our apartment and exterminate. The cost of this service was \$50. A copy of the paid receipt is enclosed.

[Say that you are subtracting this cost form the rent] This letter is notice to you that we have paid the costs of the extermination, and we are subtracting that amount from the April rent. Therefore, we are paying you \$400 for this month, which equals the difference between our monthly rent and the cost of extermination.

Sincerely,

[Your (tenant's) name and address]

Christine and Tom Miller
250 Main Street, Apt 25,
Anytown, PA 19999

Letter to Landlord when withholding rent/escrow account

April 23, 2010

[Mr. or Ms. and your landlord's name and address]

Ms. Julie Johnson
Pleasant View Apartments
555 Roosevelt Street
Anytown, PA 19999

Dear Ms. Johnson:

[Say who you are] We are your tenants at the Pleasant View Apartments at 555 Roosevelt Street, Apt. 22, under a lease agreement dated April 1, 2010.

[Tell what your problem is] This letter is to follow up on our April 16, 2010 letter to you asking for your immediate attention to the lack of hot water in our apartment, Since April 13, 2010 we have been unable to use the apartment because the broken hot water heater did not allow us to use the bath or wash our dishes, cooking utensils and clothing.

[Say that the problem has not been fixed and the apartment is uninhabitable] You have an obligation as the landlord to provide us an apartment with hot water, By not repairing the defective hot water heater you have broken the lease.

[Tell what you are going to do] Therefore, we are not going to pay the rent for the month of May, 2010 because of your failure to repair the hot water heater, We have the money for rent and request that you meet us at (name of bank) on (insert date) to sign the paperwork necessary to set up an escrow county as recommended by our lawyer,

Sincerely,

[Your (tenant's) name and address]

Tammy and Joe Thompson
555 Roosevelt Street, Apt 22
Anytown, PA 19999

*Legal Advocates For
Low-income Families*



NORTH PENN LEGAL SERVICES

www.northpennlegal.org