

Landlord-Tenant Law in Mississippi

Authored By: The University of Mississippi School of Law Legal Clinic and located at:

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MS Legal Service is an organization designed to help low-income individuals solve legal problems.

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TYPES OF TENANCIES

1. **Fixed Term Lease:** A fixed term lease has a specific ending date, and automatically terminates without notice. A fixed term lease can only be ended during the lease term for cause specified in the lease or Landlord/Tenant Act.
2. **Periodic (Month-to-month):** A periodic tenancy has no specific ending date, and is terminated by notice.
3. **Public/subsidized housing:** Tenants may live in housing operating by a public housing authority (public housing); housing operated by a private non-profit organization subsidized by a government agency (HUD, FmHA) (subsidized housing); or in private housing with rent paid by a subsidized certificate (section 8 certificate). Tenants living in public or subsidized housing may have rights/procedures not available to purely private tenants. Always inquire whether a tenant lives in subsidized or public housing, obtain a copy of the lease, and identify the particular type of housing.

REPAIRS

1. **When must a landlord make repairs to a rental unit?** A landlord must make repairs to a rental unit under the following circumstances:
 - a) **By agreement.** A landlord must make repairs if the rental agreement states that the landlord will make repairs. Check your lease to see if your landlord has agreed to make repairs.
 - b) **In common areas.** A landlord must make repairs in common areas, such as the grounds and buildings used by all tenants.
 - c) **To comply with codes.** A landlord is required to comply with all building and housing codes. Building and housing codes are defined as any law, ordinance, or governmental regulation concerning fitness for habitation, construction, maintenance, operation, occupancy or use of any premises or dwelling unit.
 - d) **To maintain the unit.** Landlords are required to maintain a unit in substantially the same condition as at the beginning of the lease, reasonable wear and tear excepted. A landlord must repair anything that was working at the beginning of the lease.
 - e) **To avoid dangerous defects or defects that impair habitability.** Landlords have a duty to provide premises free of dangerous defects and to repair dangerously defective conditions.
2. **What steps should a tenant take to obtain repairs?** A tenant must give the landlord 30 days notice, in writing, stating the specific defect that needs repair. Tenants should date the notice, keep a copy, and make a note on his copy of the day and manner of delivery of the notice to the landlord.
3. **What should the tenant do if the landlord does not repair after 30 days?** If the landlord does not repair after 30 days, a tenant may (1) cancel the lease, (2) use the repair and deduct remedy; or (3) bring suit against the landlord in justice court to make the repairs.

Warning: *If the problem was caused by a tenant or his guest, or if notice was not properly given, a tenant may be in breach of the lease by canceling or using repair and deduct.*

Notice: *No notice is required to terminate a tenancy if the landlord has committed a substantial violation that materially affects health and safety.*

Repair and deduct: In order to use the repair and deduct remedy, a tenant must be current in rent and must have given the landlord 30 days written notice. The repair cannot total more than one month's rent, and cannot exceed the ordinary and reasonable charge for such a repair. In addition, the repair and deduct remedy can only be used every six months. We suggest that before using this remedy, the tenant obtain two estimates and notify the landlord of the estimates, stating that the landlord should make the repair if he can do it for less.

EVICCTIONS

1. **When can a landlord evict a tenant for nonpayment of rent?** The landlord must give the tenant a three day notice, in writing, to evict for nonpayment of rent. The notice must state that the tenant must pay rent or vacate possession. If the tenant does not pay in three days, the landlord may file an eviction action in justice court and obtain an order of eviction.
2. **What can the tenant do if the landlord files an eviction action?** If the tenant brings the rent current before the court enters judgment, the landlord may not evict the tenant. The landlord may not refuse to accept full rent payment prior to the court order. If a tenant has properly requested repairs which were not made, the tenant may be entitled to a reasonable offset of rent for the failure to repair. In addition, if the tenant has made repairs after a request, the tenant is entitled to an offset in the landlord's action for rent. However, the offset will not stop the eviction unless the amount owed by the landlord for repairs is greater than the amount of rent owed.
3. **What should a tenant do if the landlord tries to evict for a breach of the lease?** If the tenant wants to stay in the unit, he should try to remedy the breach by payment of damages or by providing the landlord with some assurance that the breach will not occur again. He should make a written offer or remedy or assurance to the landlord and keep a copy of the offer.

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LANDLORD RETALIATION

1. **What if a landlord tries to evict a tenant for requesting repairs?** A landlord is not permitted to retaliate against a tenant for the tenant's exercise of rights related to repair. A tenant has a defense to eviction if the primary reason for the eviction is the landlord's retaliation against the tenant for exercise of rights under the Act. In addition, a landlord is required to act in good faith in terminating a tenancy or refusing to renew a lease.

EVICTIONS (continued from front)

4. **When can the landlord evict a tenant for reasons other than nonpayment of rent?**

A landlord may evict a tenant for other breaches of the lease or for damages to the property or disturbances. The landlord must give the tenant a 30 day written notice of eviction which must (1) state specifically what the tenant has done that is a breach of the lease or the landlord-tenant act; (2) state that the lease will terminate in 30 days if the tenant has not remedied the breach in some way. The landlord must give the tenant notice of his right to cure the breach, and if the tenant does cure the breach, the landlord may not seek eviction.

Warning: No notice is required to terminate a tenancy if the tenant has committed a substantial violation that materially affects health and safety.

GENERAL RIGHTS AND RESPONSIBILITIES

1. **When does my landlord have access to my apartment?**

A landlord has no right to enter a tenant's apartment unless that right is reserved in the lease. Check your lease to see whether the landlord has reserved a right to enter.

2. **Can my landlord change rules such as pet regulations in the middle of my lease?**

A landlord can make reasonable rules and regulations, but a new rule is effective during the middle of a lease only if the rule does not substantially modify the agreement. A new rule such as a no-pet rule or a pet deposit rule would appear to substantially change the lease and would therefore be effective only when a lease is renewed.

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LEASE TERMINATION

1. **When does a lease end?** If the tenancy is month to month, without a set ending date to the lease, either the landlord or tenant may terminate the lease by giving 30 days written notice. No reason is required for the termination. However, if there is a set ending date for the lease, the lease cannot be terminated before that date by either landlord or tenant except in case of a breach such as non-payment by the tenant or failure to repair by the landlord.

2. **What happens if a tenant stays on after the ending date of the lease?** If the landlord accepts rent after the lease expires, the tenant becomes a month to month tenant, and a 30 day notice is required to terminate. Or, the landlord may refuse to accept rent and file an action to remove the tenant as a holdover tenant.

3. **What will happen if a tenant leaves before the lease term ends?** If the landlord has not agreed to release the tenant from his rental obligation and has not breached the lease, the tenant is liable for the rent for the remaining period of the lease. If the landlord re-rents the apartment, the tenant's obligation will be reduced by the amount paid by the new tenant. *Warning: A tenant should not assume that the landlord is releasing him from liability just because the landlord does not object to the tenant's move. A tenant is still liable for the remaining rent during the lease unless the landlord expressly releases him from that obligation.*

4. **What is a tenant's responsibility when roommates move out?** In most leases, tenants are jointly and severally liable, meaning that each tenant is responsible for the entire rent.

5. **Can a landlord evict without going to court?** Landlords occasionally attempt to evict tenants without going through the court eviction process, either by locking the tenant out or by putting the tenant's belongings on the street. Self-help eviction is permitted in Mississippi **ONLY** if (1) the landlord has a written lease which explicitly states that the landlord reserves this right; and (2) the eviction can be accomplished without breach of the peace. Furthermore, the landlord must still give the proper written notice as set out above. If the landlord evicts by self-help without a provision in the lease, or without giving proper notice, the landlord has wrongfully evicted the tenant and may be liable for damages.

6. **Can a landlord evict by locking a tenant out?** No. Even if a landlord is permitted to use self-help to remove a tenant, he may not accomplish the eviction by locking the tenant out of the premises and locking the tenant's belongings in the premises. The only way to lawfully use self-help is for the landlord to put the tenant's belongings out prior to locking the tenant out.

RESOURCE LINKS

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12150.pdf

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/aboutfheo/aboutfheo

<http://portal.hud.gov/hudportal/HUD?src=/states/mississippi>

<http://www.ridgelandms.org>

SECURITY DEPOSITS

1. **What steps can a tenant take to get a security deposit back?** A tenant must simply request the deposit from the landlord. The landlord has 45 days after the end of the tenancy and demand by the tenant to return the deposit.

2. **When can a landlord keep a security deposit?** A landlord can keep a security deposit to remedy breaches by the tenant, including nonpayment of rent or damages, or for cleaning the apartment. The landlord must provide the tenant with a written notice itemizing the reasons for keeping the deposit within 45 days of termination of the tenancy and demand by the tenant.

3. **What can a tenant do if the landlord improperly retains a security deposit?** If the landlord fails to return the deposit without reason or compliance with the statute, the tenant may file an action in justice court for return of the deposit. If the landlord acted in bad faith, the tenant may get \$200.00 in addition to the returned deposit.

GENERAL RIGHTS AND RESPONSIBILITIES (continued from left)

3. **When can my landlord increase my rent?**

The amount of rent in a month to month tenancy can be increased by giving 30 days notice. In a fixed term lease, the rent cannot be increased until the lease is renewed, unless there is a provision in the lease providing for rent increases.

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