



Senior Supplement

An Educational Service of Legal Resources for the Elderly Program (LREP)

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Landlord-Tenant Law

For more information call the LREP toll-free Legal Helpline at
1-800-876-6657 or 505-797-6005 (Albuquerque)
www.nmbar.org/public/LREP

Can my landlord raise the rent or charge late fees?

Your landlord cannot raise the rent during the term of the lease. He or she can raise the rent at the end of a lease or when the lease is month-to-month only after giving you a 30-day notice in writing. Late fees, up to 10% of the rent can be charged for late payment only if the written lease agreement specifies late fees.

When can my landlord evict me?

With certain limited exceptions (e.g., destruction of the building by fire), a landlord cannot evict without having first given in writing a 3-day notice of non-payment, one or two 7-day notices of non-compliance, a 3-day notice of substantial violation, or a 30-day notice during a month-to-month lease. See below for the meanings of each of these notices.

What is a 3-day notice of nonpayment?

When a tenant is late in paying the rent, the landlord can give him or her a notice stating the amount due and giving the tenant 3 days to pay or leave the property.

What if I have a dispute about the rent?

You can let the landlord sue you in court and then, with appropriate documentation and witnesses, if necessary, explain to the judge why you do not owe any rent. For example, if you have given your landlord a 7-day notice of abatement for not having done repairs

and maintenance that have to do with health and safety, you may have the right to have withheld up to one-third of your rent.

If my tenant doesn't pay the rent within 3 days of receiving a 3-day notice, can I change the locks, shut off the utilities, or move out the tenant's belongings?

No, that would be an illegal lock-out and could subject you to a two-month rent penalty. If the tenant does not move out after 3 days, you can file a Petition for Writ of Restitution (eviction) in Metropolitan or Magistrate Court. A hearing should be scheduled within 7 to 10 days of serving the Petition on the tenant.

What is a 7-day notice of noncompliance?

This is a notice from a landlord stating that the tenant, at a specific time and in a specific manner, has violated the lease agreement, the apartment complex rules, or the law. The notice must state that the tenant has 7 days to fix the violation or move out, and it must state that a second notice within six months could simply require the tenant to move out after 7 days. However, as always, the landlord can only evict the tenant by getting a court order. The landlord must convince a judge that the violations occurred and that they are significant (not minor) violations.

What is a 3-day notice of substantial violation?



This is a notice from a landlord claiming that the tenant, at a specific time and in a specific manner, violated a law such that, if the tenant were convicted of violating the law, the violation would constitute a felony. (E.g. drug trafficking, felony assault.) To evict, the landlord only needs to prove in court that it is more likely than not that the violation occurred.

When can a landlord give a 30-day notice?

Any time during a month-to-month tenancy or when the lease is about to expire, except the 30 days (or more) must include an entire rental period (typically a calendar month). No reason need be given, unless the tenant is renting a space in a mobile home park for the tenant's own mobile home, or if the rental is public or federally subsidized housing (but not housing rented with a Section 8 voucher).

What can I do if my landlord is not doing repairs or maintenance related to health or safety?

You should call your local Code Enforcement Agency, if there is one. In addition, you should give the landlord or manager a "Resident's Seven-Day Notice of Abatement or Termination of Rental Agreement", which can be obtained at the Self-Help Desk of your local court (Metro, Magistrate, or District). If the landlord fails to complete the repairs within 7 days, you can abate (withhold) one-third of your rent on a pro-rated daily basis. If reasonable steps are not taken to make the repairs within 7 days, you can terminate the rental agreement. This type of notice does not apply to cosmetic repairs, only repairs

having to do with health or safety.

When do I get my damage deposit back?

Within 30 days of move-out, the landlord must return your entire damage deposit or send you an itemized list of claimed damages and include a check for the balance, if any. The landlord cannot deduct for ordinary wear and tear. Any disputes about the claimed damages can be handled in court.

If my tenants move out and do not retrieve their belongings, what can I do?

If the tenants moved out without a court order, you must give them reasonable access to their belongings for 14 days, although you can charge them reasonable storage fees. If they moved out after being evicted in court, they have 3 days to retrieve their belongings. After the 14 days or the 3 days have passed, you can dispose of their belongings in any manner, but if you sell them, you must reimburse them for the sale amount and, if you keep them, you must reimburse them for the fair market value of the belongings you keep.