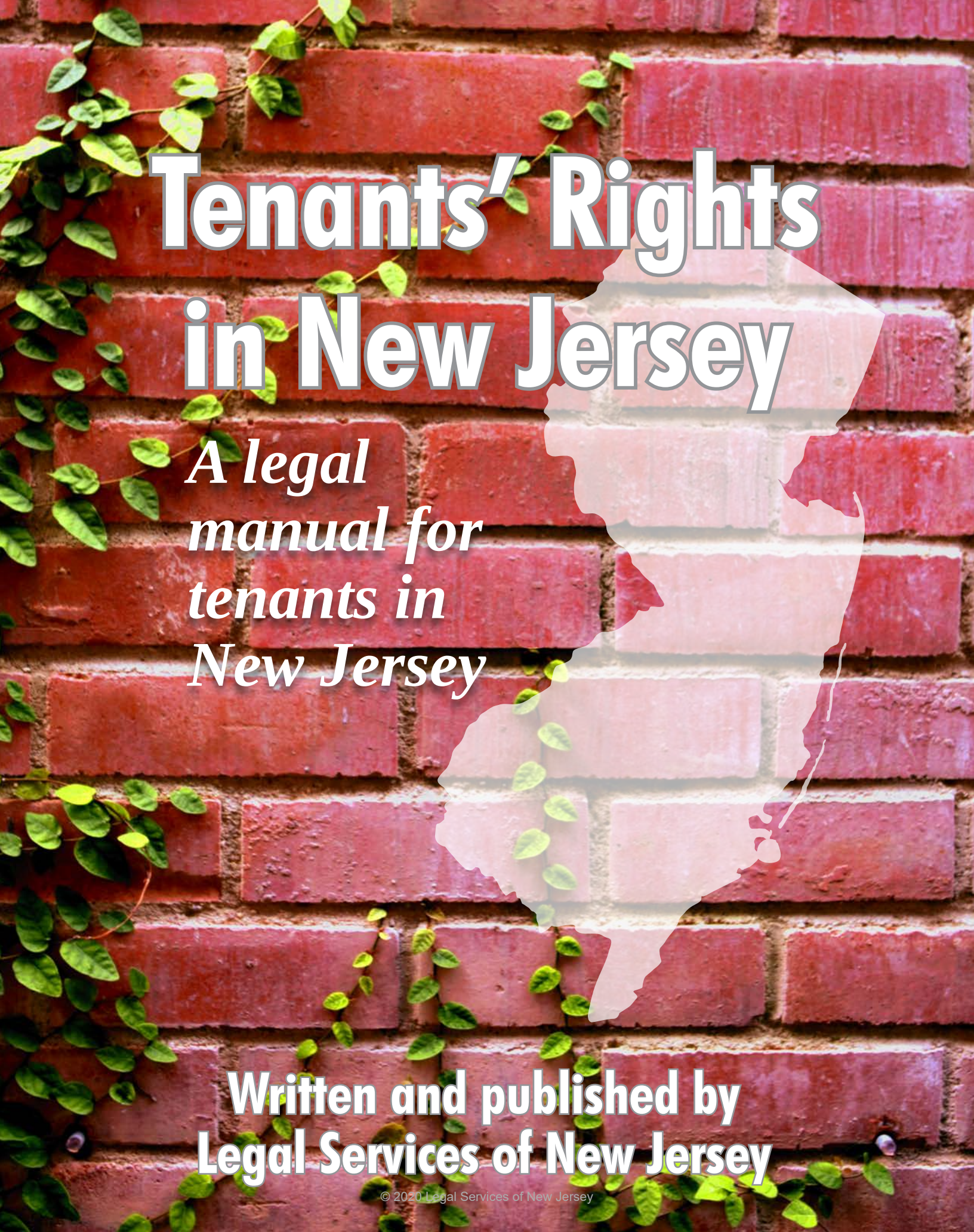

Tenants' Rights in New Jersey

A legal manual for tenants in New Jersey

Written and published by
Legal Services of New Jersey

© 2020 Legal Services of New Jersey

© 2020 Legal Services of New Jersey

Legal Services of New Jersey makes this publication available for use by people who cannot afford legal advice or representation. It may not be sold or used commercially by others.

You may copy this publication for personal or educational use only.

Copies may not be modified and must retain the information identifying Legal Services of New Jersey and the date the materials were produced.

For further information, contact:

Legal Services of New Jersey, P.O. Box 1357, Edison, NJ 08818-1357

www.LSNJ.org / www.LSNJLAW.org / publications@LSNJ.org

© 2020 Legal Services of New Jersey

Table of Contents

Introduction 1

Chapter 1: Know Your Rights 3

Do I need a lawyer? 3
- Finding a lawyer 4
- Collecting attorney's fees 4
- Representing yourself 4

Finding the law 5
- Getting the assistance of a librarian 5
- Finding landlord-tenant laws 6
  - *Finding statutes* 6
  - *Finding regulations* 6
  - *Finding case law* 6
  - *Finding ordinances or local laws* 7
  - *Federal law* 7

Tenants associations 7
- The importance of state and local tenants associations 7

Chapter 2: Finding a Place to Rent and Moving In 8

Special Case: Finding a place to rent with a Section 8 voucher or other subsidy . 8

Finding a place to rent through real estate or rental referral agencies 8
- Rental referral agencies 8
- Real estate agents 10
- Finding housing on your own 10
- Using the Internet to find housing—Be careful 10

Moving in 11
- Inspect the property 11
- Get promises to repair in writing 12

Chapter 3: Your Security Deposit 13

The Rent Security Deposit Act 13
- Does the Act apply to all landlords? 13
- How much can a landlord charge for security under the Rent Security Deposit Act? 14

© 2020 Legal Services of New Jersey

What kind of notices does the landlord need to provide to the tenant? . . 14
Notice after paying the deposit 15
Tenants living in nonowner-occupied units 15
Tenants living in owner-occupied properties 15
Annual notice 16
Other required notices 16
What if the property is sold or lost after a foreclosure while I am living there? 17
No obligation to replenish the deposit 17
Sample letters to ensure your rights under the Rent Security Deposit Act 18-24

Chapter 4: Understanding Your Lease 25
What is a lease? 25
Common lease terms 26
The term of the lease 26
The rent payment 26
The security deposit 26
Late charges 26
Attorney's fees 27
Rules and regulations 28
Care of the property 28
Notice of repairs 29
Disorderly conduct 29
Pets 29
What happens if a tenant has a pet but the property is sold to a new owner-landlord who wants to prohibit pets? 29
Controlling pets 30
Pets in public and elderly housing 30
Entering the tenant's dwelling unit 30
When can a landlord enter? 31
What if the landlord won't stay out? 31
Maintaining order 31
Renewal of the lease 31
Changes in the lease 31

Chapter 5: Ending or Breaking Your Lease 34
Why end a lease? 34
Notice to end a lease 35

© 2020 Legal Services of New Jersey

Ending a yearly lease 35
Ending a month-to-month lease 35
Moving out before the lease ends 36
Can tenants be sued for breaking a lease? 36
Give advance notice to the landlord 36
What if you decide not to move? 37
Claims for rent 37
Moving out because of very bad conditions 37
Death of a tenant or a tenant's spouse 38
Tenant illness or accident 38
Senior tenants needing to go to a nursing home or assisted living facility 39
Senior tenants accepted into subsidized housing or other low- or moderate-income housing 39
Housing that is not handicapped accessible 39
Domestic violence victims have the right to move 40
Tenants must give written notice to the landlord 40
The written notice must include other evidence of the threat 40
When will the lease end? 41
What about my security deposit? 41
What if I live in public housing? 42
Personal information must be kept confidential 42

Chapter 6: Your Right to Safe and Decent Housing 43

The warranty of habitability 43
State and local housing and property maintenance codes 44
Examples of some common issues and problems 44
Heat requirements 44
Lead poisoning 45
Testing for lead poisoning 46
Removing or abating lead paint 46
Support to help tenants relocate and landlords remove lead 47
Window guards 47
Bed bugs 48
Learning about bed bugs 48
Ways to get rid of bed bugs 49
Knowing your rights is important 49
Getting legal advice and help is important 50

© 2020 Legal Services of New Jersey

How to get your landlord to make repairs 51
Using the housing and health codes 51
Reinspecting a housing unit 52
Condemning or closing a building 52
Using the board of health to get heat 53
What if the heating oil runs out? 53
Using the rent to make repairs: repair and deduct 53
Withholding rent 54
How to start withholding rent 54
What to expect 55
Rent abatements 55
Settlement in court 56
Tenants joining in a rent strike 56
Court order to repair 56
Rent receivership 57
Going to the landlord's insurance company 57

Chapter 7: Your Rights When the Rent Is Increased 58

The correct way to increase the rent 58
Notice terminating lease and notice of rent increase 58
If you don't pay the increase 59
Unconscionable rent increases 60
Burden of proof 60
What does the landlord have to prove? 61
Increases under rent control 62
Hardship increases 62
Challenging a hardship increase 63
Illegal rents under rent control 63
Rent increases due to condo or co-op conversions 63
Increases to retaliate or get even 64

The next 5 chapters are all about the who, what, when, where and how of evictions in New Jersey.

Chapter 8: The Tenant's Right to Court Process 65

Only a court can evict a tenant 65
Illegal lockouts 65

© 2020 Legal Services of New Jersey

Holding property for rent 66
Rights of hotel and motel residents 66
Rights of rooming and boarding house residents 68
The causes for eviction 68
What constitutes "just cause" to evict a tenant? 68
The few exceptions to eviction for cause 68
Tenants in foreclosed property 69
A note about "notices" 69
The only legal grounds for eviction (N.J.S.A. 2A:18-61.1) 70
a. Not paying rent 70
b. Disorderly conduct that disturbs other tenants 71
c. Damage or destruction of the landlord's property 71
d. Violation of landlord's rules and regulations 71
e. (1) Violation of lease agreement 72
e. (2) Violation of public housing lease agreement provision prohibiting illegal use of drugs or other illegal activities 72
f. Not paying a rent increase 73
g. Housing or health code violations 73
h. Landlord wants to permanently retire building from residential use . . 74
i. Not accepting changes in the lease 74
j. Paying rent late month after month (habitual lateness) 75
k. Conversion to condominium or cooperative 75
l. The owner wants to live in the apartment or house 76
m. Tenant loses a job that includes rental unit 76
n. Conviction of a drug offense 77
o. Conviction of assaulting, attacking, or threatening the landlord 77
p. Engaging or being involved in drug activity, theft, or assaults or threats against a landlord 78
q. Conviction of theft offense 79
r. Human trafficking 79

Chapter 9: The Legal Eviction Process 80

Notices required before an eviction suit 80
Notice to cease 80
Notice to quit and demand for possession 80
Service of the notice to quit 81
The court complaint 81

© 2020 Legal Services of New Jersey

The summons 81
Information about tenants' rights 81
Time from complaint to court date 81
Right to an interpreter 81
Postponing your court hearing 82
Going to court 82
The calendar call and instructions 83
Settling your case with the landlord 84
Mediation 85
Be prepared to defend your case in court 85
The hearing 86
The judge's decision 87

Chapter 10: Defenses to Eviction 88

Unauthorized practice of law 88
The Landlord Registration Act 89
Failure to register 89
Improper notice or no notice 89
Failure to follow federal notice requirements and procedures 91
Public housing notice requirements 91
Subsidized housing notice requirements 92
Section 8 voucher notice requirements 92
Improper eviction complaint 93
You already paid the rent or can pay it on the court date 93
Paying utility bills that your landlord is supposed to be paying 94
Failure to obtain a certificate of occupancy 94
Failure to provide safe and decent housing 95
The landlord is wrong, did not prove one of the good causes for eviction, or is lying 95
Waiver—the landlord knew about it but continued the tenancy 96
Retaliation—the landlord wants to get even 96

Chapter 11: What Happens After the Eviction Hearing? . . 97

Warrant for removal 97
If the court officer evicts you 98
Staying the warrant for removal—getting more time to move 98
By agreement with the landlord 98

© 2020 Legal Services of New Jersey

Going to court 98
Orders for orderly removal—stopping the lockout to get more time to move 99
Hardship stays—up to six months 99
Stays for terminally ill tenants 100
How to overturn the warrant—vacating the judgment to prevent homelessness
The Abandoned Tenant Property Law (N.J.S.A. 2A:18-72) 100

Chapter 12: Special Programs for Tenants 102

Programs to prevent eviction 102
Homelessness Prevention Program (HPP) 102
Back rent for tenants facing eviction 103
HPP vouchers 103
How to apply for the Homelessness Prevention Program 103
HPP has limited funding 103
If you are denied HPP 104
Emergency Assistance (EA) 104
How to apply for EA 104
Other rental assistance programs 105
Relocation assistance 105
What is relocation assistance? 106
Which agency provides relocation assistance? 106
How can I obtain relocation assistance? 106
How can I protect my right to receive relocation assistance? 107
Displacement by fire 107
Property tax rebates for tenants 107

Chapter 13: Condominium and Cooperative Conversions 109

Conversions are complicated: Get help! 109
Basic steps in conversion 109
The notice of intent to convert 110
The full plan of conversion 110
Three-year notice to vacate or quit 110
The right to ask for comparable housing 111
Rent increases during the three-year notice period 111

© 2020 Legal Services of New Jersey

Further delays in evictions 111
Additional requirements 111
Special protections for senior citizens and the disabled 112
Qualifications for protection 112
How to apply for protection 112
Protections against rent increases 112
Special Hudson County protections 113
Qualifications for protection 113
How to apply for protection 113
Other requirements 114

Chapter 14: Rooming and Boarding Homes and Mobile Home Parks 115

Protections for rooming and boarding house residents 115
The licensing process 115
Protections against eviction 116
Other rights of boarding home residents 116
Protections for mobile home tenants 117
Requirement for a written lease 117
Moving and selling mobile homes 118
Disclosure of fees 118
Rent increases and maintenance 118
Manufactured Home Owners Association 118

Chapter 15: Housing Discrimination 120

Discrimination in renting is illegal 120
Refusal to rent to Section 8 recipients and people with other types of income 120
Discrimination against families with children 121
Special protection for the disabled 121
What may not be discrimination 122
How to file a discrimination complaint 122
Local fair housing groups 124
The need for legal help 125

The New Jersey Legal Services Programs 126

© 2020 Legal Services of New Jersey

Introduction

LEGAL SERVICES OF NEW JERSEY (LSNJ) coordinates the statewide Legal Services system in New Jersey, providing free legal assistance to low-income people in civil matters. Part of Legal Services' mission is to make people more aware of their legal rights and provide helpful information if they choose to pursue a legal case on their own. Awareness may allow you to resolve some problems on your own, without the need for a lawyer, or to make better use of a lawyer if you have one.

A Word of Caution About Using This Manual

This manual does not give advice about a particular legal problem that you may have and it is not a substitute for seeing a lawyer when you need one. You should talk to a lawyer if you think you need help.

Chapters of this manual are reviewed and updated as laws change. For this reason, the date of the most current review is noted at the beginning of each chapter, rather than for the entire manual. If you have a specific question about an area of the law, you should talk to a lawyer for up-to-date legal advice.

This manual is for tenants

Information is the key to a good relationship between a tenant and landlord. This manual gives you the information you need to be a good tenant and make sure that your landlord treats you properly and fairly. The manual explains a tenant's rights and responsibilities under New Jersey laws. An informed tenant may be better able to solve problems with his or her landlord directly, without the need for lawyers or judges.

Note: Tenants in public housing and other federal- and state-assisted housing have rights in addition to those discussed in this manual.

This manual is for landlords

Although written for tenants, this manual can also be of help to landlords. The manual describes a landlord's legal duties in renting apartments or homes to tenants. Landlords who know and follow the law are more likely to have good tenants and well-kept property. Following the law is just good business.

Acknowledgments

This edition of Tenants' Rights in New Jersey was revised by LSNJ co-chief counsels Linda Babecki and Alice Kwong. It is based on several prior editions written by Felipe Chavana, David G. Sciarra, Harris David, and Connie Pascale. Robin Patric of LSNJ

© 2020 Legal Services of New Jersey

publications, was responsible for design, layout, and production. Special thanks to Tricia Simpson-Curtin, chief content officer, for editing and proofing.

Comments or suggestions

We hope this manual will be helpful to you. Please let us know if you have comments or suggestions that we might use in future editions. You can write to us or email us at:

Legal Services of New Jersey
P.O. Box 1357
Edison, NJ 08818-1357
publications@lsnj.org

—Melville D. Miller, Jr., President
Legal Services of New Jersey
Edison, New Jersey

© 2020 Legal Services of New Jersey

Chapter 1
Know Your Rights

The information in this chapter is accurate as of April 2014, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

TENANTS IN NEW JERSEY have legal rights and responsibilities. These rights and responsibilities are stated in many different laws. This manual explains those laws and explains your rights and responsibilities as a tenant.

Read this manual carefully. Knowledge is the key to your rights! You can't protect yourself if you don't know what your legal rights are.

This chapter discusses times when you might need a lawyer, how to find one, and how to find the law if you have to represent yourself. It also explains the benefits of joining a tenants association.

Do I need a lawyer?

This manual gives information about landlord and tenant law. It cannot answer every question and it does not provide specific advice about a particular legal problem that you may have. It is not a substitute for a lawyer.

The information in this manual will help you protect your rights as a tenant. If you know your rights and responsibilities, you can avoid legal problems. You can also be better able to assert your rights with your landlord on your own, and defend yourself in court, if necessary.

Knowledge of your rights will also make you better prepared if you have to see a lawyer. If you're not sure whether you need a lawyer, by all means talk to one.

If you have to go to court, try to get a lawyer to represent you. You may find it difficult to follow the law or deal with the landlord, especially if the landlord has a lawyer. You may also find that properly preparing your case to follow the law may be difficult. If you lose your case and want to appeal, you will need a lawyer to help you.

© 2020 Legal Services of New Jersey

Finding a lawyer

If you need the advice of a lawyer but cannot afford one, you may be eligible for Legal Services. Contact the Legal Services program in your area. You can find a list of programs and telephone numbers on the last page of this manual.

Legal Services of New Jersey (LSNJ) coordinates the statewide Legal Services system in New Jersey, providing free legal assistance to low-income people in civil matters. This includes disputes involving landlords and tenants. Part of Legal Services' mission is to make people more aware of their legal rights. Awareness allows people to resolve some problems on their own, without the need for lawyers. Informed people also are able to make better use of lawyers when they are needed.

You also may contact LSNJ's statewide, toll-free legal hotline, LSNJLAW℠. Apply online at ***www.lsnjlawhotline.org*** or call 1-888-LSNJ-LAW (1-888-576-5529). The hotline provides information, advice, and referrals to low-income New Jersey residents who have civil legal problems. This service is provided at no charge to applicants who are financially eligible.

If you don't qualify for Legal Services, contact your local lawyer referral service. You can get the telephone number for the lawyer referral service in your area by contacting your county bar association.

There may also be a tenants association in your building or complex or other tenant groups in your city or town. These groups can help you find a lawyer and may know of lawyers who represent tenants at a reduced cost. Tenants associations are discussed later in this chapter.

Collecting attorney's fees

A law passed in 2013 may help you get an attorney to represent you. Before this law, a court could omly order a landlord to pay a tenant's attorney's fees in a very small number of cases, such as cases where a tenant sues a landlord to get back a security deposit and wins. This made it difficult for a tenant to find a private attorney willing to represent him or her.

The law gives tenants the right to have the court order the landlord to pay the tenant's attorney's fees in other kind of cases too, including evictions. It says that tenants automatically have this right if the tenant's lease started or was renewed after February 1, 2014, and the lease says that the landlord has the right to collect attorney's fees if the landlord wins. In other words, it gives a tenant exactly the same right to collect these fees as the landlord gave to itself in the lease. [The number of this law, called its citation or "cite," is N.J.S.A. 2A:18-61.66 et seq.]

This law may help you find an attorney who is willing to represent you, because if you have a good case and win the landlord will have to pay your attorney too.

Representing yourself

If you can't find or afford a lawyer, you can always represent yourself. In legal terms,

© 2020 Legal Services of New Jersey

this is called appearing in court *pro se*. If you read it carefully, this manual will help you prepare your case if you have to go to court by yourself. Take notes on what you read, and review your notes before you go to court. Be prepared!

The Supreme Court of New Jersey is very concerned that tenants who represent themselves are treated fairly. The Court has implemented procedures to assure that this occurs, and that tenants understand their rights. *Cite: Community Realty Management v. Harris,* 155 N.J. 212 (1998). These procedures are described in more detail in Chapter 9, "The Legal Eviction Process."

Finding the Law

You may want to read a law that is discussed in this manual to better understand the law or to prepare your case for court. If you need to read a law, there are several places you can go to find law books.

Check your local public library first. You may find everything you need right there. Some colleges and county courthouses have law libraries. The State Library and the two New Jersey law schools have extensive law libraries that are open to the public.

You may also be able to find the law online. You can ask a friend who knows about doing computer research how to find a law. You can also ask a librarian.

Getting the assistance of a librarian

Librarians are very helpful in pointing out where the books and statutes are located. They will also help if you are having difficulty finding the statutes and cases for which you are looking.

The State Library is located at:
185 West State Street
P.O. Box 520
Trenton, NJ 08625-0520
Library phone: (609) 278-2640
www.njstatelib.org

Rutgers School of Law:
http://law-library2.rutgers.edu

Newark location
123 Washington Street
Newark, NJ 07102
Library phone: (973) 353-5675

Camden location
217 North Fifth Street
Camden, NJ 08102
Library phone: (856) 225-6172

© 2020 Legal Services of New Jersey

Finding landlord-tenant laws

This manual uses the word *Cite***:** followed by numbers, letters, and names to refer to laws. A cite tells you the book in which the law is located. You can then read the law yourself by finding the cited book.

Landlord-tenant laws are made in several ways in New Jersey. Proposed laws, or bills, when passed by the State Legislature and signed by the governor, become laws and are called "statutes." Some statutes require state government agencies to adopt laws called "regulations." Laws are also made by judges when they decide court cases involving landlords and tenants. These laws are known as "case law." Towns can also make rent control and other landlord-tenant laws, sometimes called "ordinances" or "local laws." And the federal government makes some landlord-tenant laws too, known as "federal laws."

Finding statutes. Statutes are printed in a set of green books called New Jersey Statutes Annotated (N.J.S.A.). These books are numbered and have "titles." There are many "chapters" in each book, and many "articles" in each chapter. A cite to one of these laws is: N.J.S.A. 2A:18-53 (N.J.S.A. title 2A, chapter 18, article 53).

Tenant laws are in several N.J.S.A. books. To find out which N.J.S.A. book and chapter has the law you want, first look in the N.J.S.A. index. The N.J.S.A. general index for letters G-M lists various tenant laws under the heading "Landlord and Tenant." This list gives the cites or book numbers where you can find the law you want.

New or recent landlord-tenant laws may be in the "pocket parts" of the N.J.S.A. book. The pocket parts are found at the back of each book. Even if the law you want is in the regular N.J.S.A. book, you should always check the pocket part to see if any changes to the law have been made. The pocket parts are updated every year.

Finding regulations. Some landlord-tenant laws require the New Jersey Department of Community Affairs (DCA) to issue regulations for carrying out the law. DCA and other state agency regulations are located in a set of dark blue binders known as the New Jersey Administrative Code (N.J.A.C.).

Finding case law. Landlord-tenant law is also made by judges when they decide court cases involving disputes between landlords and tenants. This law, or case law, is located in two sets of books called case reporters. Reporters contain court decisions that explain why the judge decided for or against a tenant. Decisions by courts where landlord-tenant disputes are first heard (trial courts) and decisions by the appellate court are located in a set of light green books called New Jersey Superior Court Reports (N.J. Super.). Decisions by the Supreme Court of New Jersey, the highest state court, are located in the cream-colored books called New Jersey Reports (N.J.)A cite to a decision in either reporter starts with the names of the people or companies who were in court against each other. After the names, the number of the book where you can find the court decision is listed.

For example, *Marini v. Ireland,* 56 N.J. 130 (1970), refers to a Supreme Court decision

© 2020 Legal Services of New Jersey

where the landlord—Marini—sued his tenant—Ireland. The decision is found in the 56th volume of New Jersey Reports, starting at page 130. The year of the decision is 1970. The cite to trial or appellate court decisions in the New Jersey Superior Court Reports is N.J. Super. An example of a Superior Court cite is *Drew v. Pullen,* 172 N.J. Super. 570 (App. Div. 1980).

Finding ordinances or local laws. Landlord-tenant laws are also made by city, borough, or township governments, such as rent control laws and standards for maintaining rental property, or property maintenance laws. Laws made by local governing bodies are called ordinances. For example, the New Brunswick rent control law is located in a book called Ordinances of the City of New Brunswick. To find out if your city or township has passed a landlord-tenant law, you can call your city or township hall. Your local public library and the law libraries mentioned above also may have copies of the ordinances.

Federal law. Federal laws and federal court decisions affect New Jersey tenants who live in public housing or other federally subsidized housing. Federal law applies to tenants receiving rental assistance under the federal program known as Section 8. Federal law also prohibits certain types of discrimination in the rental of housing.

This manual includes cites to federal statutes and court decisions. These cites allow you to find federal statutes, regulations, and court decisions at the law library.

Tenants associations

Tenants associations are groups of tenants in a single building or in a town that work to improve the conditions in rental housing. Tenants associations also work to protect and increase the legal rights of tenants. The New Jersey Tenants Organization (NJTO) works to protect and improve state laws affecting tenants' rights. In fact, most of the New Jersey laws protecting tenants were passed as a result of the efforts of NJTO and other tenant organizations.

The importance of state and local tenants associations

Tenants associations are very important because many laws affecting tenants are made every year by city or town councils. These important laws cover rent control, property maintenance, and housing inspection.

It is important for tenants to work together, on a building-, block-, neighborhood-, and town-wide basis, to address these issues. Tenants can also work together to try to rid apartment complexes of illegal drugs or to find ways to deal with landlords who don't follow the law. Find out what tenants groups exist in your area, and get involved with them. To find out if there is a tenants association in your city or town, contact the New Jersey Tenants Organization at: New Jersey Tenants Organization, 96 Linwood Plaza, #233, Fort Lee, NJ 07024. Phone: (201) 342-3775. Website: ***www.njto.org***. Email: info@jto.org.

© 2020 Legal Services of New Jersey

Chapter 2
Finding a Place to Rent and Moving In

The information in this chapter is accurate as of April 2014, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

NEW JERSEY HAS a serious shortage of safe, decent, and affordable rental housing. This housing is especially scarce for tenants who receive public assistance, such as disability, old age benefits, or welfare. For low-income people and families, affordable rental housing in good condition can be hard to find.

Special Case: Finding a place to rent with a Section 8 voucher or other subsidy

Some landlords refuse to rent to tenants who have Section 8 vouchers or other rent subsidies, such as Emergency Assistance from the Board of Social Services. New Jersey law makes it illegal to refuse to rent housing solely because a tenant will pay rent with this kind of rental assistance. *Cite*: N.J.S.A. 10:5-12(g); *Franklin Tower One, L.L.C. v. N.M.*, 157 N.J. 602 (1999). If you have a Section 8 voucher or some other subsidy and a landlord refuses to rent to you, you should immediately contact a lawyer or the New Jersey Division on Civil Rights. For further details, see Chapter 15, "Housing Discrimination."

Finding a place to rent through real estate or rental referral agencies

Tenants often seek help in searching for an apartment or house to rent. This chapter explains your rights when you use real estate or rental agencies to find housing.

Rental referral agencies

Tenants looking for housing sometimes go to rental referral agencies, also called apartment locators or apartment finders. There have been many complaints about some of these agencies. For example, many of these agencies charge fees just for a list of apartments for rent. These lists are often copied out of the local newspapers. Sometimes,

© 2020 Legal Services of New Jersey

people are referred to apartments that are already rented or to apartments that don't even exist.

Rental referral agencies must follow certain regulations. *Cite*: N.J.A.C. 11:5-6.5. The most important of these regulations are discussed below.

- The agency must provide you with a written contract. The contract must accurately state the services to be provided and the fee to be charged. It must also state the length of the contract and the actions you must take to use the service. The contract must state the policy for refunds.
- The agency is prohibited from advertising or referring you to non-existing addresses or properties that the agency has not checked for availability.
- The agency cannot refer you to a rental property unless it has the permission of the landlord or the landlord's agent to refer prospective tenants. Where the agency has obtained a landlord's oral consent to refer tenants to the property, the agency must get the landlord's written consent within 24 hours.
- The agency must regularly check with the landlord to see if the apartment remains available by checking all the units advertised in a newspaper each day the ad appears and by checking all units to which tenants are referred every three working days.

New Jersey law requires rental referral agencies to follow certain regulations. The most important are discussed here.

- The agency must tell you when they last checked the unit for availability. Agencies may not refer you to any apartment not checked within the previous seven calendar days. The regulations require agencies to have enough telephone lines and workers to receive and answer phone calls from their clients.
- The agency cannot charge you more than $25 before you obtain housing unless:
  - the fee charged is deposited promptly in the agency's escrow account and held until the agency performs all of the services in your contract, or
  - the agency posts a cash security in an amount approved by the New Jersey Real Estate Commission.
- An agency must keep copies of all contracts between consumers and the agency for one year. It must also keep copies of written statements showing that landlords gave the agency permission to refer tenants and that the agency checked that rental units were available before referring tenants.
- An agency must post the regulations in their offices and give consumers a copy on request.

Ask questions about the referral service before you use an agency. Ask to examine their contract and look through their agreements with landlords. Make sure the agency

© 2020 Legal Services of New Jersey

lists available apartments and does not simply copy ads from newspapers. To make a complaint about a referral agency, visit ***www.state.nj.us/dobi/consumer.htm#realestate,*** or contact the New Jersey Real Estate Commission at:

New Jersey Real Estate Commission
20 West State Street
P.O. Box 471
Trenton, NJ 08625-0471
(609) 292-7272

Real estate agents

You can also get help finding an apartment from real estate agencies. These agencies will not ask you for money unless they are going to take you to see a specific apartment. Agencies that actually rent and sell homes and apartments can be a big help in finding a place to live. Do not confuse real estate agencies with apartment finder or rental locator agencies, which do nothing for your money except give you a rental list.

If you find a place to rent through a real estate agency or broker, any lease for a year or more that the agent or broker prepares for you must contain a "three-day attorney review" clause. This means that if you and the landlord sign the lease, you have three days to have an attorney look at it to see if it contains any clauses or paragraphs that you didn't agree to or that you don't like. If the attorney finds things you didn't agree to or don't like, he can send a notice within the three day period to the agent or broker and cancel the lease. *Cite*: N.J.A.C. 11:5-6.2(g).

Finding housing on your own

Try looking in the neighborhood for rental signs. Look in the newspaper and ask friends to help you. If you are looking for an apartment, it is a good idea to get the newspaper at the earliest possible time of the day so that you can try to get to the apartment before anyone else. You should never rent an apartment you haven't seen.

Using the Internet to find housing—Be careful

Many people today use internet websites to find apartments to rent. These websites can be a valuable source of information. But the advice given in the last paragraph—"Never rent an apartment you haven't seen"—is extremely important when you use the internet to search for housing. Always be sure you visit and inspect the apartment or house before paying any money to someone who claims to be the landlord. Never pay the person who claims to be the landlord any money over the internet to hold the apartment. Always make sure you meet with him or her, visit the unit, and make sure that the person really has the power to lease it to you.

© 2020 Legal Services of New Jersey

Moving in

Moving in marks the real beginning of your relationship with your landlord. This is the moment at which you first occupy your rental unit. This is a good time to make sure the apartment or house is safe and in good condition and, if it is not, to make an agreement with the landlord to make any necessary repairs.

The condition of the apartment when you move in is also important when you move out. Some landlords try to blame tenants for damages that were there when the tenant moved in. This will allow the landlord to keep all or part of your security deposit if he can show that you damaged the apartment. There are steps you can take to get the landlord to repair anything that is broken when you move in and to keep the landlord from blaming you for the damage later on.

Inspect the property

Before you move in, make sure that the apartment has received a certificate of occupancy (C.O.) from the town housing inspector. Not all towns have laws requiring a certificate of occupancy. Call your town inspector to find out if the town has such a law. Also, check the following:

- **Bathroom:** Check the water pressure and hot water, and look for leaks. Make sure that the toilet works. Check for loose tiles on the walls and floor, and look for bugs or signs of bugs.
- **Kitchen:** Check the water pressure, leaks, hot and cold water, stove, and refrigerator, if any; look for roaches and other bugs.
- **Bedrooms and sleeping rooms:** Check the walls, floors, and furnishings (if the apartment or home is being rented with furniture already in it) for bedbugs or evidence of bedbugs
- **Ceiling and walls:** Check the ceiling and walls for water leak stains, dampness, mold, loose plaster, holes, or cracks.
- **Windows:** Check the locks, screens, glass, and frames.
- **Floors:** Look for rotten wood, loose tiles, splinters, water stains, and cigarette burns.
- **Electricity:** Make sure that the light switches and fixtures work. Take a lamp and try all of the outlets, and look for hanging or open wires. It is sometimes not possible to check the working condition of electrical switches and outlets because the power may have been shut off in the apartment.
- **Heat:** Turn on the heating system and make sure that it works properly, even if you rent in the summer.

In the kitchen, check the water pressure, hot and cold water, and look for leaks.

© 2020 Legal Services of New Jersey

- **Basement:** Look for rat holes, dirt, trash, leaks, loose wires, broken windows, crumbling walls, mold, roaches and termites.
- **Smoke detectors:** Check for installation and make sure they work properly.
- **Doors:** Check for dead-bolt locks and peepholes on the entrance door.
- **Paint:** Look in all rooms to make sure paint is fresh; check for dangerous, chipping lead paint. (See "Lead poisoning" in Chapter 6.)

After you have checked each of these items, make a list of what is broken or in poor condition. If you found signs of roaches, bedbugs, rats, mice, mold, or other bugs or animals, be sure to put these items in your list. Ask the landlord or superintendent to sign the list. If they refuse, get one of your friends or neighbors to sign and date it. Be sure to keep a copy of the signed list. It is a very good idea to take pictures too. You can also talk to other tenants who already live there. For example, if you are renting in the summer, they can tell you if there's enough heat in the winter.

Get promises to repair or correct any problems in writing

Ask the landlord to make all necessary repairs or correct any bug, mold or rodent problems immediately. However, you should not accept the landlord's spoken promise. It is very important to get the landlord to write out what he or she promises to fix and when. Any promises made by the landlord that are not in writing, with the date and the landlord's signature, are difficult to enforce. If you try to enforce a spoken promise, it will be your word against the landlord's. A written agreement also protects you later on if the landlord tries to say that you were the one who caused the damage.

Any promises made by the landlord that are not in writing, with the date and the landlord's signature, are difficult to enforce.

If you cannot get the landlord to sign a written agreement or statement, then you should send your list of defective conditions in a letter to the landlord. Explain in the letter that you expect that the landlord will make the repairs. Send the letter by certified mail, return receipt requested. Keep a copy of the letter and the return receipt for use later. If you can, take pictures of the defective conditions and hold on to them.

You will need these documents should the landlord seek to wrongfully evict you or keep your security deposit.

© 2020 Legal Services of New Jersey

Chapter 3
Your Security Deposit

The information in this chapter is accurate as of June 2019, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

A SECURITY DEPOSIT is any money paid to the landlord in case the tenant moves out and owes money. It may be called something else, but it is still a security deposit. "Last month's rent" paid in advance is security deposit money because it protects the landlord in case the tenant moves without paying the last month of rent. *Cite: Brownstone Arms v. Asher,* 121 N.J. Super. 401, (Dist. Ct. 1972). A "pet deposit" is a security deposit because it is money paid to the landlord in case the tenant's pet damages the unit. *Cite: Chatterjee v. Iero,* 380 N.J.Super. 46 (Law Div. 2005).

The security deposit is the tenant's money, but it is held by the landlord. (N.J.S.A. 46:8-19, N.J.S.A. 46:18-23) If the tenant does not pay the entire security deposit, a landlord should not treat it like unpaid rent. The *only* time a landlord can ever treat nonpayment of a security deposit as unpaid rent is pursuant to N.J.S.A. 46:8-21.1, when: 1) the tenant is displaced; 2) the tenant gets the initial deposit back; 3) the tenant later moves back in, and 4) the tenant fails to repay the deposit in the installment payments as required by law. A landlord cannot treat a security deposit as his or her personal property. They also cannot put it in a bank account with their own money, like any rent money that they receive. Knowingly using money that is supposed to be held in trust could be a disorderly person's offense. (N.J.S.A. 46:8-25)

The Rent Security Deposit Act (N.J.S.A. 46:8-19 – N.J.S.A. 46:8-26)

Does the Act apply to all landlords?

The Act does not apply to seasonal use or rental units. "Seasonal use or rental" means that the rental is for 125 days or less, by a person who has a permanent home someplace else. (Living quarters for seasonal, temporary or migrant farm workers connected with their work are not considered seasonal rentals. The landlord has to prove that the use or rental of the property is "seasonal." (N.J.S.A. 46:8-19(d))

The Act does not automatically apply to owner-occupied properties with one or two residential rental units (including your unit). We will discuss this in more detail in the section "Notice After Paying the Deposit."

If the Act applies, the landlord has to abide by the law, regardless of what your lease

© 2020 Legal Services of New Jersey

states. (N.J.S.A. 46:8-24) For example, you can apply your security deposit to rent if your landlord did not follow the law, even if your lease states that you cannot use it for rent.

How much can a landlord charge for security under the Rent Security Deposit Act?

The total security deposit can never be more than one and a half times the full monthly rent. Remember, a security deposit can include things like "last month's rent" paid up front, or a "pet deposit."

The landlord may request additional security deposit money annually. However, the additional amount cannot be more than 10% of the prior deposit, and the total security can never be more than 1½ times the monthly rent. (N.J.S.A. 46:8-21.2)

If the tenant paid too much security deposit money, the tenant may seek a credit against the rent for the excess amount. *Cite: Brownstone Arms v. Asher,* 121 N.J.Super. 401 (Dist. Ct. 1972).

What kind of notices must the landlord provide to the tenant?

The Rent Security Deposit Act requires the landlord to deposit a tenant's security in a New Jersey bank in an account that pays interest. The bank may need the tenant to complete an IRS W-9 Request for Taxpayer Identification Number and Certification form. This is because the security deposit is the tenant's money and any interest earned is treated as income to the tenant.

Example: Improper Security Deposit Increase

Tenant's rent is $1,000 per month. The landlord demanded one month's security deposit, which the tenant paid. The landlord also required a $100 pet deposit. A year later, the landlord sought to increase the rent by $50, to $1,050. The landlord then demanded that the tenant pay an additional $575 toward the security deposit. $1,575 is 1½ times the new monthly rent of $1,050.

Can the landlord increase the deposit to $1,575?

No. The total of all security deposit monies is $1,100 ($1,000 deposit plus the $100 pet deposit), because a pet deposit is security deposit money. An additional $575 toward the deposit would mean that the total deposit would be $1,675, which is more than 1½ times the monthly rent.

More importantly, the landlord cannot ask for more than 10% of the initial deposit of $1,100. The landlord can only increase the security deposit by $110 (10% of the prior deposit).

© 2020 Legal Services of New Jersey

Notice after paying the deposit

Tenants living in nonowner-occupied units

The landlord has 30 days from receipt of the deposit to provide written notice with the following information:

- The name and address of the bank where the deposit is being kept;
- The amount of the deposit;
- The type of account that is being used; and
- The current interest rate for that account.

This information may be on the written lease agreement or in a separate notice. If a landlord fails to provide this notice, the tenant can apply the security deposit, plus 7% of the deposit for each year it was held, to the rent. A bank providing the notice on behalf of the landlord is sufficient, if it includes all of the required information. The law requires that the notice include all of the above information. However, some courts have denied an application of the security to rent where the landlord nearly complied with all of these requirements and properly deposited the money. A tenant applying the security deposit should have the rent money set aside in case the landlord files for eviction, and the judge does not rule in the tenant's favor.

Even if the landlord sends the notice within 30 days, the landlord still violates the law if the notice is not true. In that case, you have the same rights as if the landlord had not sent you a notice at all. (*Princeton Hill Associates v. Lynch*, 241 N.J. Super. 363 (App. Div. 1990)). See ***Sample Letter #1*** *to Landlord Applying Security to Rent for Failure to Provide Initial Notice for Nonowner-Occupied Properties*.

Tenants living in owner-occupied properties

Tenants who live in owner-occupied properties with one or two residential rental units (including your unit) can apply the security deposit toward rent by first sending a thirty day notice to the landlord demanding that the landlord comply with the provisions of the Rent Security Deposit Act. This is a called invoking the provisions of the Rent Security Deposit Act. The landlord, then, has 30 days to comply with the requirements of the Act. (N.J.S.A. 46:8-26) See ***Sample Letter #2*** *to Landlord Invoking the Provisions of the Rent Security Deposit Act for Owner Occupied Premises with One or Two Residential Rental Units.*

If the landlord fails to comply with requirements after you have sent the notice invoking the provisions, then you have the right to apply the security deposit as described above. See ***Sample Letter #3*** *to Landlord Applying Security to Rent for Failure to Provide Initial Notice for Owner-Occupied Properties.*

© 2020 Legal Services of New Jersey

Example: Computing the Amount to Apply to Rent

Tenant paid $1,000 security deposit January 1, 2017
and wishes to apply it with interest to rent on March 31, 2020.

Interest for full years 2017, 2018, and 2019
1/1/2016 - 12/31/2016: $1,000 x 1.07 = $1,070
1/1/2017 - 12/31/2017: $1,070 x 1.07 = $1,144.90
1/1/2018 - 12/31/2018: $1,144.90 x 1.07 = $1,225.04

Interest for January to March, 2020
1/1/2019 - 3/31/2019: $1,225.04 x .07 = $85.75
$85.75 ÷ 12 (for 12 months over the course of a year) = $7.15
$7.15 x 3 (for the 3 months in 2019) = $21.44

The total the tenant can seek to apply to rent as of March 31, 2020 is $1,246.48 ($1,225.04 + $21.44)

Annual notice

On the anniversary of the lease, the landlord must pay any accrued interest to the tenant, or apply that amount to the tenant's rent. If interest rates are low, this may not be much money. The landlord also has to provide a notice, containing the same information as discussed in the prior section, at the time of each annual interest payment.

If the landlord fails to pay the annual interest and/or provide the annual notice, the tenant can send the landlord written notice about the error and allow 30 days from the mailing date, or hand delivery, for the landlord to comply. See ***Sample Letter #4*** *to Landlord for 30-Day Notice of Failure to Provide Annual Interest Statement or Payment.*

If there is no compliance, then the tenant can send a letter notifying the landlord that they are applying the security and interest to the rent. See ***Sample Letter #5*** *to Landlord, Applying Security Deposit to Rent for Failure to Give the Annual Interest Statement or Payment.*

If the annual notice is also supposed to notify the tenant about a change of account or institution (discussed below), then the tenant does not have to first give the landlord 30 days to correct the error.

Other required notices

If your landlord moves the deposit from one bank to another, he or she has 30 days from the date of the move to provide the person who made the deposit with written notice of the change. If the bank that has your security deposit merges with another institution, the landlord then has 30 days of receipt of notice to inform you. See ***Sample Letter #6*** *to Landlord, Applying Security Deposit to Rent for Failure to Provide Notice After Merger.*

© 2020 Legal Services of New Jersey

What if the property is sold or lost after a foreclosure while I am living there?

The new owner is responsible to the tenant for the security deposit, even if the new owner did not get the deposit from the prior owner. (N.J.S.A. 46:8-21). The tenant may be asked to show proof that the deposit was paid, such as a receipt.

A new landlord must provide the tenant with the same notices—the name and address of bank that holds the account, the type of account, and the rate of interest—within 30 days of the transfer of the property. (N.J. S.A. 46:19(c)(5)). See ***Sample Letter #7*** *to New Owner Regarding Notice of Where Security Deposit Was Placed.*

If you are not sure when the transfer of the property occurred, you can go in person to your county register of deeds to look at the deed. Some counties maintain land records online. A pending foreclosure with the court does not mean that ownership of the property has changed.

TIP: Always keep proof that you paid a deposit. Try to get a written receipt. You can write out a receipt for the landlord to sign or initial. Include your name, the amount paid, that it is for a security deposit for (property address), and the date that payment was made. This could also be added to any written lease agreement.

No obligation to replenish the deposit

Once a tenant legally tells the landlord to use the security deposit as rent, the landlord can't ask for another deposit as long as the tenant lives in the apartment or house. (N.J.S.A. 46:8-19(c); *Delmat v. Kahn,* 147 N.J. Super. 293 (App. Div. 1977)).

See Sample Letters starting on the next page.

© 2020 Legal Services of New Jersey

Sample Letters

Send these letters on your own to help ensure your rights under the Rent Security Deposit Act

Sample Letter #1 *to Landlord – Applying Security Deposit to Rent for Failure to Provide Initial Notice for Nonowner-Occupied Properties*

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

On or about _____ (approx. date), you received a security deposit in the amount of $_____. It has been more than 30 days since that time. I have not received anything in writing stating the name of the institution where the deposit has been placed, the type of account in which the security deposit is deposited or invested, the current rate of interest for that account, and the amount of such deposit or investment.

Therefore, in accordance with N.J.S.A. 46:8-19, I am applying my deposit of $____, plus 7% interest per annum, totaling $____, to the rent, for a total of $____. This means that I currently [pick one] only owe $____ for rent, or, I have a $____ credit against my rent.

Thank you for your attention to this matter.

Your tenant,

_____
(Your Name)

© 2020 Legal Services of New Jersey

Sample Letter #2 *to Landlord – Invoking the Provisions of the Rent Security Deposit Act for Owner-Occupied Premises with One or Two Residential Rental Units*

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

On or about _____ (approx. date), you received a security deposit in the amount of $_____. In accordance with N.J.S.A. 46:8-26, this is my 30-day notice to you invoking the provisions of the Rent Security Deposit Act, N.J.S.A. 46:8-19 et seq.

I intend to seek whatever remedies the Act affords if you fail to comply with its provisions within 30 days. Thank you for your attention to this matter.

Your tenant,

_____
(Your Name)

© 2020 Legal Services of New Jersey

Sample Letter #3 *to Landlord – Applying Security Deposit to Rent for Failure to Provide Initial Notice for Owner-Occupied Properties*

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

It has been more than 30 days since my letter to you invoking the provisions of the Rent Security Deposit Act, N.J.S.A. 46:8-19 et seq.

You have not provided me with written notice of the name of the institution where the deposit has been placed, the type of account in which the security deposit is deposited or invested, the current rate of interest for that account, and the amount of such deposit or investment. Therefore, according to N.J.S.A. 46:8-19, I am applying my deposit of $_____, plus 7% interest per annum totaling $_____, to the rent, for a total of $_____. This means I currently [pick one] only owe $_____ for rent, or, I have a $_____ credit against my rent.

Your tenant,

_____
(Your Name)

© 2020 Legal Services of New Jersey

Sample Letter #4 *to Landlord – 30-Day Notice of Failure to Provide Annual Interest Statement or Payment* *

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

On or about (approx. date), you received a security deposit in the amount of $_____. This is to put you on notice that [I have not received my annual interest payment AND/OR I have not received the annual notice as required by N.J.S.A. 46:8-19.1(c)]. Thank you for your attention to this matter.

Your tenant,

_____
(Your Name)

* If the property is owner-occupied, first read Chapter 3, "The Rent Security Deposit Act—Does the Act apply to all landlords?" before sending any letter.

© 2020 Legal Services of New Jersey

Sample Letter #5 *to Landlord –*
Failure to Give the Annual Interest Statement or Payment *

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

It has been more than 30 days since I mailed (or hand-delivered) the enclosed letter to you (include copy of prior letter). I have not received a written response from you.

Therefore, in accordance with N.J.S.A. 46:8-19, I am applying the deposit of $___, plus 7% interest per annum totaling $___, to the rent, for a total of $___. This means I currently owe [pick one] only $___ for rent, or, I have a $___ credit against my rent.

Thank you for your attention to this matter.

Your tenant,

_____
(Your Name)

* If the property is owner-occupied, first read Chapter 3, "The Rent Security Deposit Act—Does the Act apply to all landlords?" before sending any letter.

© 2020 Legal Services of New Jersey

Sample Letter #6 *to Landlord – Applying Security Deposit to Rent for Failure to Provide Initial Notice After Merger* *

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

On or about (approx. date), you received a security deposit in the amount of $_____. You notified me that the deposit was placed in (name of institution). Such institution has merged with (name of institution) and it has been more than 30 days since the merger was completed and made known to the public. You had 30 days after receiving notice of the merger to provide me with written notice stating the name of the current institution that has the deposit, the type of account in which the security deposit is deposited or invested, the current rate of interest for that account, and the amount of such deposit or investment. I have not received such a notice. Therefore, in accordance with N.J.S.A. 46:8-19(c), I am applying my deposit of $_____, plus 7% interest per annum, totaling $_____, to the rent, for a total of $_____. This means I currently owe [pick one] only $_____ for rent, or, I have a $_____credit against my rent.

Thank you for your attention to this matter.

Your tenant,

_____
(Your Name)

* If the property is owner-occupied, first read Chapter 3, "The Rent Security Deposit Act—Does the Act apply to all landlords?" before sending any letter.

© 2020 Legal Services of New Jersey

***Sample Letter #7** to New Owner*
*Regarding Notice of Where Security Deposit was Placed **

_____
(Date)

_____

_____

_____
(Landlord's Name and Address)

Re: Security Deposit for _____

_____
(Your Address)

Dear Mr./Ms. _____
(Landlord's last name)

I paid a security deposit of $_____ to the prior owner. In accordance with N.J.S.A. 46:8-21, you are responsible to me for that money, regardless of whether you received it from the prior owner.

You were required to provide me with notice of where the security deposit was placed, the type of account and rate of interest, within 30 days after the transfer of the property. It has been more than 30 days since the transfer.

Therefore, according to N.J.S.A. 46:8-19, I am applying the deposit of $_____, plus 7% interest per annum totaling $_____, to the rent, for a total of $_____. This means I currently owe [pick one] only $_____ for rent, or, I have a $_____ credit against my rent.

Thank you for your attention to this matter.

Your tenant,

_____
(Your Name)

* If the property is owner-occupied, first read Chapter 3, "The Rent Security Deposit Act—Does the Act apply to all landlords?" before sending any letter.

© 2020 Legal Services of New Jersey

Chapter 4
Understanding Your Lease

The information in this chapter is accurate as of September 2017, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

What is a lease?

A LEASE IS A CONTRACT (agreement) between a landlord and a tenant for the rental of an apartment or house. A lease can be an oral (spoken) agreement or it can be in writing.

In New Jersey, a tenant with an oral lease has all of the same rights and protections as a tenant with a written lease. On the other hand, if a case between a landlord and tenant ends up in court, lease terms that put restrictions on a tenant or try to limit the tenant's rights will be very hard for the landlord to prove if they have not been put in writing, except for very basic things like the address of the property or the amount of the rent.

In New Jersey, every written lease must be written in "plain language." This means that the lease must be written in a "simple, clear, understandable, and easily readable way." *Cite*: N.J.S.A. 56:12-2.

Before signing a written lease, read it carefully. Do not sign a lease with blank spaces. Make sure that the terms in the items in the lease are the same as those you and the landlord agreed to when you discussed renting the unit. If you do not understand something in the lease, don't sign it. Tell the landlord you first want to take it to a friend or lawyer who will help you to understand it. If you do sign a lease, be sure you get a copy. This will prevent the landlord from making changes afterward.

Most leases in New Jersey, whether oral or written, are not the result of bargaining between the landlord and the tenant. The landlord knows that there is more demand for rental housing than there are units to rent, so the landlord can set the lease terms. The person who wants to rent the apartment must then accept the lease as offered by the landlord.

Sometimes, landlords will try to include unreasonable, unfair, or even unlawful terms in the lease. For example, a landlord who does not know the law in New Jersey might put in a lease that the landlord can use the security deposit to make repairs while the tenant is still living there. In New Jersey, it is not lawful for the landlord to do this. Or a lease may require a tenant to get the landlord's permission to have overnight guests or visitors. This rule is unreasonable. A tenant has the right to have friends or relatives visit for a few days without getting permission from the landlord.

If the landlord tries to use a lease term that is unreasonable or not lawful to evict a

© 2020 Legal Services of New Jersey

tenant, the court hearing the eviction should refuse to do so. This is true even if the tenant signed the lease with the unreasonable or unlawful term in it. The NJ Supreme Court has said in several cases that tenants have no real power to make landlords change the terms in the leases the tenants are offered, and that tenants can fight these lease terms in court. *Cite*: *Green v. Morgan Properties*, 215 NJ 431 (2013).

Common lease terms

The term of the lease

A lease will contain a term (a length of time that you agree to rent the property).

A lease will contain a term (a length of time that you agree to rent the property). It is usually a month, six months, or a year. If your lease has no set length of time, the term is automatically a month if the rent is paid on a monthly basis. This means that your agreement runs from month to month. *Cite*: N.J.S.A. 46:8-10. Just because you have a month-to-month lease does not mean that the landlord can get you out at the end of any month. You don't have to leave just because the term of your lease is up. The law contains special rules for evicting tenants.

The rent payment

The lease will state the amount of rent you agree to pay monthly for the house or apartment. This means that if you sign a one-year lease for $800 a month, you are entering into a contract for $800 for 12 months, or $9,600.

You should always pay your rent by personal check or money order. This way you have a receipt for each payment. You should not pay rent with cash unless you get a signed receipt! Be careful if you use money orders. Sometimes a landlord will claim that he or she did not get your money order. You will then have to ask the bank to find out what happened to it. This can cause you problems if the landlord tries to evict you for nonpayment of rent. In that situation, you will need proof to show the judge that you did pay the rent. Therefore, always get a signed receipt from your landlord for each rent payment, even when you pay by money order. Always keep copies of all of your rent receipts.

The security deposit

The lease may require a security deposit. If a security deposit is required, the written lease should state that it was received and indicate the amount.

Late charges

Many leases require a late charge if the rent is not paid by a certain date of the month. This charge is supposed to cover the money lost by the landlord as a result of the late payment. Courts will enforce late charges if they are reasonable and spelled out in writing in

© 2020 Legal Services of New Jersey

the lease. The landlord cannot evict based upon nonpayment of late charges unless there is an agreement stating that late charges are to be considered part of the "rent." *Cite*: *447 Associates v. Miranda,* 115 N.J. 522 (1989). In Section 8 housing, a landlord cannot sue to evict for nonpayment of late charges whether they are called rent or not. *Cite*: *Community Realty Management Company v. Harris*, 155 N.J. 212 (1998). Similarly, a public housing authority cannot evict for nonpayment of late charges even if they are called rent. *Cite*: *Housing Authority of the City of Atlantic City v. Taylor,* 171 N.J. 580 (2002); *Hodges v. Feinstein,* 189 N.J. 210 (2007).

Late charges are also not allowed if the tenant did not pay the rent on time because the landlord failed to make needed repairs. Under the Anti-Eviction Act, a tenant who repeatedly pays rent after its due date can be sued for eviction provided that the landlord gives the tenant proper notices. See "The Causes for Eviction" in Chapter 8. In addition, there is a law that states when rent must be paid and when landlords can charge a late fee. This statute does not apply to all tenants. It applies only to apartments rented by senior citizens receiving Social Security Old Age Pensions, Railroad Retirement Pensions, or other government pensions in the place of Social Security Old Age Pensions, and by recipients of Social Security Disability Benefits, Supplemental Security Income (SSI), or welfare benefits under WorkFirst NJ. *Cite*: N.J.S.A. 2A: 42-6.1 and 6.3.

The law states that a landlord must allow a tenant a period of "five business grace days" to pay the rent. If a tenant pays the rent in the five-day period, the landlord may not charge a late fee. In counting the five business days, do not include Saturday, Sunday, or a national or state holiday.

If the landlord knows, or should know, that your monthly income regularly does not arrive by a certain day, he should pick a later date that is fair to both of you.

Attorney's fees

Some leases require a tenant to pay the landlord's attorney's fee if the landlord has to use a lawyer to take the tenant to court. If your lease has such a term, and the landlord takes you to court for eviction and wins the case, you will be responsible for paying a "reasonable" fee for the landlord's attorney. *Cite*: *Community Realty Management v. Harris,* 155 N.J. 212 (1998); *University Court v. Mahasin,* 166 N.J. Super. 551 (App. Div. 1979).

Sometimes a landlord will demand attorney's fees in an eviction action and seek to evict if the tenant cannot pay them. However, in order to do this:

- There must be a written lease, and
- The lease must state that attorney's fees are "additional rent" or "collectible as rent."

If there is no written lease that describes attorney's fees as "rent," you cannot be evicted for failing to pay attorney's fees. *Cite*: *Community Realty Management v. Harris*, 155 N.J. 212 (1998).

However, even if there is such a lease provision, the law may limit the amount of your rent due, and the landlord may not be able to evict you for failure to pay attorney's

© 2020 Legal Services of New Jersey

fees. For example, a public housing authority cannot evict a tenant for nonpayment of attorney's fees, even if the lease calls the attorney's fees additional rent. *Cite*: *Housing Authority of the City of Atlantic City v. Taylor*, 171 N.J. 580 (2002); H*odges v. Feinstein,* 189 N.J. 210 (2007). If you live in other housing that receives federal assistance, such as Section 8 housing, you should also argue that the amount of your rent is only what the housing agency handling your Section 8 says it is—that is, it is only the rent amount stated in your lease. Also, if you live under rent control, you should argue that the rent control ordinance limits your rent, and that adding in attorney's fees as extra or additional rent would exceed the rent control limits. *Cite*: *Housing Authority of the City of Atlantic City v. Taylor*, 171 N.J. 580 (2002); C*ommunity Realty Management Inc. v. Harris*, 155 N.J. 212 (1998); Ivy Hill Park Apartments v. Sidisin, 258 N.J. Super. 19 (App. Div. 1992).

In an eviction case, if the judge finds that you are responsible for paying a reasonable fee for the landlord's attorney, you can be evicted if you do not pay that amount on the day of the hearing. Sometimes a landlord will ask a judge to evict a tenant even though the tenant paid the rent owed before the court date, but failed to include the attorney's fees with the rent payment. If the landlord tries to do this, the tenant should argue that the landlord, by accepting rent, gave up or "waived" the right to evict for not paying attorney's fees. *Cite*: *Carteret Properties v. Variety Donuts, Inc.*, 49 N.J. 116 (1967). However, it is up to the court to decide whether in fact the landlord did give this up. Therefore, it is always important to go to court unless the tenant obtains a statement in writing that the landlord is dismissing the case. Also see "Waiver—the landlord knew about it but continued the tenancy," in Chapter 10.

In New Jersey, leases that give landlords the right to collect attorney's fees and expenses from you give you the right to collect attorney's fees and expenses from your landlord. If there is an attorney's fee clause in your lease, your landlord takes you to court and you win, you may be able to collect attorney's fees and costs of fighting the lawsuit from your landlord. (N.J.S.A. 2A: 18-61.66) You can also use this money as a rent credit if you choose. If the case is dismissed because you pay all of the rent owed, you cannot get attorney's fees and costs. Costs do not include child care, travel costs or missed work time.

Rules and regulations

A lease will often have rules that the landlord wants the tenant to follow. Lease rules require you to conduct yourself in a certain way, or they state that you can't do certain things in your apartment or in the common areas of your building or complex. For example, your lease may contain rules about using a washing machine in your apartment; about your responsibility to pay for electric, gas, heat, or other utilities if not included in the rent; about how you are to dispose of trash; and how you must use common facilities, such as laundry rooms or playgrounds. Your lease may also contain a "no smoking" clause.

Care of the property

A lease will usually state that you are responsible for any damage done to the property

© 2020 Legal Services of New Jersey

by your children, guests, or pets if it is more than "normal" wear and tear. The law requires tenants to be responsible for the proper care of the landlord's property even if your written lease contains nothing about this or if you have an oral lease. Under the Anti-Eviction Act, you can be evicted for destroying the landlord's property.

Notice of repairs

Most leases state that the tenant is responsible for giving the landlord prompt notice of any repairs that need to be made to the property. Tenants have a legal responsibility to notify the landlord of needed repairs, even if there is no written lease. There are several reasons you should promptly report any defect, particularly such problems as water leaks. These problems can cause additional damage if they are not corrected right away. By giving notice of such problems, you can also avoid any attempt by the landlord to claim that you must pay for the additional damage. You can also avoid giving the landlord a claim against all or part of your security deposit. You should make sure that, when possible, you give notice in writing, keeping a copy for your records.

Most leases state that the tenant is responsible for giving the landlord prompt notice of any repairs that need to be made.

Disorderly conduct

Under any lease, whether written or spoken, you cannot interfere with the rights of other tenants. This means that you and your family members, guests, and pets cannot act in ways that disturb the peace and quiet of other tenants and neighbors. Under the Anti-Eviction Act, you can be evicted for being disorderly, making too much noise, and disturbing other tenants.

Pets

A written lease usually will state whether the tenant is allowed to have a pet. If your landlord says that it's okay to have a pet, make sure that you get his or her permission in writing. Many landlords do not permit pets, and the lease will have a "no pets" clause in it.

What happens if a tenant has a pet but the property is sold to a new owner-landlord who wants to prohibit pets? When the tenant's lease expires, the new landlord might try to offer the tenant a new lease with a no pets clause. The law prohibits a new owner-landlord from forcing tenants to give up pets that they were allowed to have by the previous owner. If a tenant has a pet because the old landlord gave permission for the pet, the new landlord must allow the tenant to keep the pet. However, the new landlord can prohibit new tenants from having pets and can try to force an existing tenant to get rid of any pet that is causing problems for other tenants. *Cite*: *Royal Associates v. Concannon,* 200 N.J. Super. 84 (App. Div. 1985) and *Young v. Savinon,* 201 N.J. Super. 1 (App. Div. 1985).

© 2020 Legal Services of New Jersey

If you are allowed to have a pet, you must maintain control over it.

Controlling pets. If you are allowed to have a pet, you must maintain control over it. If you allow your pet to damage the property or interfere with the rights of other tenants, your landlord can demand that you control your pet or remove the animal from the building. Your failure to control your pet also could lead to your eviction under the Anti-Eviction Act.

Pets in public and elderly housing. There are special rules regarding pets for senior citizens who live in rental housing for the elderly. A New Jersey law allows all residents of senior citizen housing projects to have pets. *Cite*: N.J.S.A. 2A-42-104. Federal law also allows the elderly and disabled to own and keep common household pets in federally assisted elderly rental housing. *Cite*: 12 U.S.C. § 1701n-1. In addition, all tenants of public housing have the right to have one or more pets as long as their owners meet reasonable conditions established by the housing authority. *Cite*: 42 U.S.C. 1437z-2. New Jersey law also gives residents of all senior citizen projects the right to have pets. *Cite*: N.J.S.A. 2A:42-103. This law applies to buildings containing three apartments or more, condominium projects, and cooperative buildings, as long as all of the apartments are for senior citizens. A senior citizen is defined as a person 62 years of age or older and includes the surviving spouse of a senior as long as he or she is at least 55 years old.

Under the law, the landlord cannot refuse to renew a tenant's lease because the tenant owns a pet. The landlord can make reasonable rules concerning the care and control of pets by tenants and can require a tenant to give away any offspring that the tenant's pet has, within eight weeks of their birth. The landlord cannot require that the pet be spayed or neutered.

The law also allows a landlord to demand that a tenant get rid of a pet if:

- The tenant does not follow the reasonable rules adopted by the landlord, and this causes a violation of any health or building code.
- The tenant does not take good care of the pet.
- The tenant does not control the pet, such as keeping a dog on a leash when taking the animal out for a walk.
- The tenant does not clean up the pet's waste when asked to do so by the landlord.
- The tenant does not keep his or her pet from making waste on the sidewalks, doorways, hallways, or other common areas in and around the complex.

Entering the tenant's dwelling unit

All leases, whether written or oral, give the tenant "exclusive possession" of the dwelling

© 2020 Legal Services of New Jersey

unit. This means that only the tenant, or members of the tenant's household, or people the tenant allows in the house or apartment, have the right to be there. The landlord does not have the right to come into the house or apartment whenever he or she wants. In a written lease, the landlord's duty to not enter the tenant's house or apartment is called the covenant of quiet enjoyment. This covenant (promise) means that the tenant has control over who can or cannot come into his or her apartment or house. *Cite*: *Ashley Court Enterprises v. Whittaker,* 249 N.J. Super. 552 (App. Div. 1991).

When can a landlord enter?

The law allows the landlord or the landlord's workers to go into the tenant's dwelling only in a few special situations:

- If the tenant invites or asks the landlord or one of the landlord's workers to come in.
- If the landlord needs to inspect the apartment, but only:
    - o at reasonable periods of time—every day is unreasonable, every few months might be okay;
    - o at a reasonable time of day— 4 a.m. is unreasonable, 4 p.m. might be okay, depending on whether the tenant will be home at that time; and
    - o after giving the tenant reasonable notice that he or she is coming to inspect. Reasonable notice usually means a written notice. It also usually means that the notice must be given at least one day before the landlord wants to come in. For buildings containing three apartments or more, there is a regulation requiring one day's notice before a landlord can come into an apartment to make an inspection or do repairs. *Cite*: N.J.A.C. 5:10-5.1(c).

The law allows the landlord or the landlord's workers to go into the tenant's dwelling to do maintenance or make repairs. For nonemergencies, they can only enter at a reasonable time and after giving reasonable notice.

- If the landlord or one of the landlord's workers needs to go into the apartment to do maintenance or make repairs. If the repairs are not an emergency, they can only enter the house or apartment at a reasonable time and after giving reasonable notice.
- If the landlord or the landlord's workers need to go into the house or apartment to do emergency repairs. Under this circumstance, the landlord may not have to give one day's notice—or even any notice—if the emergency is really serious or dangerous, for example, the apartment is on fire or water is rushing out of a broken pipe and

© 2020 Legal Services of New Jersey

pouring through the floor. But even in the case of an emergency, the landlord should try to give some notice if he or she can, even if the notice is just a phone call.

What if the landlord won't stay out?

If the landlord or one of the landlord's workers enters your house or apartment and does not have your permission or does not have one of the other reasons discussed above, he or she is breaking the law. You should send a letter by certified mail to the landlord complaining about what happened. Keep a copy for your records. You can also call the police or go to the police station or local court and file a complaint for "trespass" or "harassment" against the person who entered without your permission. You might be able to file a trespass or harassment complaint because, even though your landlord owns the building, he or she has given you the right to possess the apartment.

Maintaining order

A lease requires the landlord to make sure that each tenant respects the rights of other tenants. If one tenant is disturbing the other tenants by playing loud music at night or destroying the property, it is the landlord's responsibility to make that tenant stop. *Cite*: *Gottdiener v. Mailhot*, 179 N.J. Super. 286 (App. Div. 1981). But in order for the landlord to be held responsible for any damages suffered by the tenants, one of the tenants must tell the landlord about the situation. *Cite*: *Williams v. Gorman,* 214 N.J. Super. 517 (App. Div. 1986), cert. denied, 107 N.J. 111 (1987).

Renewal of the lease

Many written leases will have a section explaining how you can get a new lease when your current lease ends. The lease may, for instance, state that unless the lease is ended by either the landlord or the tenant, it will automatically be renewed for another year. But a yearly lease that is not renewed automatically becomes a month-to-month lease when the year in the lease ends. *Cite*: N.J.S.A. 46:8-10.

A month-to-month lease will renew itself automatically for another month unless the tenant or the landlord acts to end the lease. This rule applies even if the lease agreement is oral and not in writing. *Cite*: N.J.S.A. 46:8-10.

Changes in the lease

When your lease ends, the landlord can offer you a new lease with changes in the terms and conditions of the lease. To do this, the landlord must give you a written notice ending your existing lease and offering to enter into a new lease with you if you accept the changes. The landlord's notice must clearly spell out the changes.

A tenant's refusal at the end of a lease to accept reasonable changes in the terms and conditions of the lease can result in eviction under the Anti-Eviction Act. To be "reasonable," the changes must take into account the circumstances and interests of both the

© 2020 Legal Services of New Jersey

landlord and the tenant. This means that your landlord cannot make lease changes that he or she knows will cause you unnecessary hardship, unless he or she has very strong reasons for doing so. If your landlord sends you a written notice containing lease changes that you think are unreasonable, send a letter to the landlord describing the unreasonable lease changes. Your letter should also say that you will not accept the new lease unless the landlord offers to make changes that are reasonable. *Cite*: *447 Associates v. Miranda*, 115 N.J. 522 (1989).

For example, at the end of your lease, your landlord wants to change the lease by putting in late charges if your rent is paid after the fifth day of the month. The landlord knows that you do not get paid or receive your assistance check until the third or fourth day of the month, and that it will be very hard for you to get the rent money to him by the fifth. You refuse to sign the new lease, and the landlord takes you to court to try to evict you. In court, the judge should decide that the lease change is not reasonable because the landlord knows that you cannot pay the rent by the fifth of the month and should have picked a later date.

© 2020 Legal Services of New Jersey

Chapter 5
Ending or Breaking Your Lease

The information in this chapter is accurate as of February 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

ALL LEASES, WHETHER WRITTEN or oral, last only for a specific period of time, such as one month or one year. This chapter explains four things about ending or breaking leases. First, it explains how to end a lease so that you can move out when the lease period is up. Second, it explains what happens if you do need to move before your lease ends for a reason not accepted by the law. Third, it explains that the law says you can break your lease and move if the landlord refuses to repair very serious defects in your rental unit. Fourth, it discusses other situations when the law says a tenant has the right to break a lease, including if the tenant dies or becomes disabled, or is a victim of domestic violence, or is a senior and needs to move into a nursing home or low-income housing.

Note: Before you end or break a lease, you must understand a basic rule about landlord-tenant law in New Jersey. Because of the Anti-Eviction Act, you cannot be evicted simply because your lease ends. As explained in Chapter 8, "The Tenant's Right to Court Process," a tenant can only be evicted if the landlord can prove one of the good causes for eviction under the law. The ending or expiration of a lease is not a good cause for eviction. This means that, however long your lease, you do not have to move just because your lease has ended. It also means that, unless you or the landlord end your lease, all yearly leases and month-to-month leases automatically renew themselves. The only exception to this rule is if you live in a building with only two or three apartments and the landlord lives in one of the apartments.

Why end a lease?

Landlords and tenants have different reasons for wanting to end a lease. As stated above, a landlord cannot evict you just because your lease is over. Because of this, unless the landlord has other legal grounds to evict you, the only reason for a landlord to end your old lease is so that he can offer you a new lease with different terms, such as a higher rent or new rules and regulations. By ending your lease, the landlord cannot get you to move but can require you to pay more rent or to follow new rules.

On the other hand, tenants often want to end their leases because they need or want to move.

© 2020 Legal Services of New Jersey

Notice to end a lease

To end a lease, either the tenant or the landlord must give the other a written notice before the end of the lease, stating that the lease will not be renewed. If this written notice is not given or is not given in the required time, then the lease will renew itself automatically, at least on a month-to-month basis, generally with the same terms and conditions. *Cite*: N.J.S.A. 46:8-10.

To end a lease, either the tenant or the landlord must give the other a written notice before the end of the lease, stating that the lease will not be renewed.

Ending a yearly lease

To end a yearly lease, unless the lease says otherwise, you must give the landlord a written notice at least one full month before the end of the lease. The notice must tell the landlord that you are moving out when the lease ends. Also, unless the lease says otherwise, the landlord must give you at least one full month's notice before the end of the lease to terminate a yearly lease so that the landlord can raise the rent or change other terms of the lease. Remember, you cannot be evicted just because the landlord ends your lease.

For example, if your yearly lease ends on June 30, you have to give the landlord written notice before June 1 that you plan to terminate the lease on June 30. Failure to give the proper notice may result in the automatic creation of a month-to-month tenancy. In that case, you may be responsible for at least an additional month's rent. In this example, your failure to give notice may allow the landlord to charge you for July's rent and to subtract it from your security deposit even if you move out on June 30th.

If your lease or a notice from your landlord says that you must either sign a new lease by a certain date or else move out by the date your present lease expires, your failure to renew your lease will put the landlord on notice that you intend to move out at the end of the lease period. If you object to changes in the lease, let the landlord know. Lease changes must be reasonable. See Chapter 8, "The Tenant's Right to Court Process." If you then choose not to move out, you will become a month-to-month tenant. *Cite*: *Kroll Realty v. Fuentes*, 163 N.J. Super. 23 (App. Div. 1978) and *Lowenstein v. Murray*, 229 N.J. Super. 616 (Law Div. 1988). You will, however, be subject to eviction for refusing to sign a new lease.

Ending a month-to-month lease

To end a month-to-month lease, or any rental agreement that does not have a specific lease term, you must give a written one-month notice before the month starts. You can then move out at the end of the month. *Cite*: *S. D. G. v. Inventory Control Co.*, 178, N.J. Super. 411 (App. Div. 1981); *Harry's Village, Inc. v. Egg Harbor Tp.*, 89 N.J. 576 (1982).

For example, say that you have a month-to-month lease, your rent is due the first of every month, and you want to move on June 30. You have to give the landlord a written notice before June 1 saying that you will be moving out as of June 30, and you will end your lease at that time.

© 2020 Legal Services of New Jersey

Moving out before the lease ends

Under the law in New Jersey, tenants are allowed to break their leases in certain cases, such as when the apartment is in very bad condition. These cases are described later in this chapter. Sometimes tenants move out for reasons that are not accepted by the law, even though they may be very important to the tenants. Reasons not accepted by the law include thing like moving to be near a new job, or getting a divorce, or moving back to your home town to care for a family member. While your landlord cannot stop anyone from moving, the landlord may be able to sue you for money if break your lease and leave.

Can tenants be sued for breaking a lease?

If you move out before the end of the lease for a reason not accepted by the law, the landlord may be able to hold you responsible for the rent that becomes due until the apartment or house is rented again, or until the lease ends. Reasons not accepted by the law include thing like moving to be near a new job, or getting a divorce, or just wanting to move back to your home town.

For example, if you move out during July because you got a new job, and your lease ends on October 31, you could be held responsible for the rents of August, September, and October. But if another tenant moves in on September 1, then the landlord may sue you only for August's rent. This does not apply if the landlord agrees in writing to let you move before the lease ends.

If a tenant moves out before the lease ends, the landlord must try to re-rent the apartment. This means that in order to recover rent for the months left on the lease, the landlord must prove that he or she tried to find another tenant but could not. The landlord must show, for example, that he or she immediately began advertising the apartment and interviewing tenants. *Cite*: *Sommer v. Kridel*, 74 N.J. 446 (1977). If the landlord does not do this, the landlord cannot make the tenant pay for any months left on the lease.

Give advance notice to the landlord

Notify your landlord in writing as soon as you know that you will be moving out before the end of your lease term. Try to get your landlord's written permission to break the lease. If your landlord refuses to give you permission and you know of people who are interested in your apartment, send their names in a letter to your landlord.

When your moving date arrives, remove all of your property from the unit and turn in the keys promptly to the landlord or superintendent. Try to have the landlord or superintendent sign a receipt for the keys, or take a friend to witness your surrender of the keys. After you move, check to see when your former apartment becomes occupied and at what rent.

© 2020 Legal Services of New Jersey

You do not have to leave a forwarding address when you move. But if you want your security deposit back, you may have to give your old landlord your new address.

What if you decide not to move?

Tenants sometimes notify the landlord that they are moving because they have found another apartment that is more affordable or in better condition. What can you do if the new apartment becomes unavailable or some other problem comes up that makes the move impossible? If this happens, you do not have to move out just because you gave notice. There may be financial consequences, however. If you are concerned, you should contact Legal Services or your state or local tenants association. However, your landlord can't evict you simply because you did not leave when you said you would. *Cite*: *Chapman Mobile Homes v. Huston*, 226 N.J. Super. 405 (1988).

Claims for rent

Another important rule of New Jersey landlord tenant law is that a landlord cannot collect rent or any money from you in a lawsuit to evict you under the Anti-Eviction Act unless you voluntarily agree to pay to rent so you can stay. A successful suit for eviction can only give the landlord possession of the rental property. It cannot be combined with a claim for money. In order to sue you for rent because you broke your lease, or for damage to the apartment, the landlord must file a separate complaint for money damages, usually in Small Claims Court.

Moving out because of very bad conditions

If very serious conditions in your apartment force you to move before the end of your lease, you are still entitled to have your security deposit returned to you.

If your landlord refuses to make needed repairs to your apartment, you can move out before the lease ends and still not be held responsible for rent for the time left on the lease. It is important to have proof that the conditions are very bad. You can show proof by having a building inspection done and taking pictures before you move out. In this situation, the law holds the landlord responsible for breaking the lease by failing to fulfill his or her duty to provide you with safe and decent housing. This is called constructive eviction. Please read Chapter 6, "Your Right to Safe and Decent Housing," for an explanation of a landlord's duty to maintain housing in good condition.

There are certain rules that apply for a constructive eviction:

- You can break your lease under this rule if the conditions in your rental unit are so bad that it is very hard to live there. Examples of this are if you have no heat in the winter, or your health and safety are at risk. In addition, your landlord must have

© 2020 Legal Services of New Jersey

failed to correct the problem after receiving notice from you, which should be in writing if at all possible. *Cite*: *Marini v. Ireland,* 56 N.J. 130 (1970); *C.F. Seabrook v. Beck*, 174 N.J. Super. 577 (App. Div. 1980).

- If you move because of bad conditions before your lease ends, your landlord may sue you for rent for the time left on the lease. The landlord will almost certainly refuse to return your security deposit. You may find yourself in court either because the landlord has sued you for back rent or because you are suing the landlord for the return of your security deposit. Whether you win or lose in court will depend on how serious the judge believes the conditions were that you claim forced you to move. Judges usually allow a tenant to break the lease only when very serious conditions exist, such as no heat, no water, a broken toilet, a broken elevator if you have trouble walking, flooding, or excessive and constant disturbances.
- It is important that you give the landlord notice of the defective conditions and a reasonable amount of time to make repairs before moving out and claiming constructive eviction. Your notice should be in writing, and by certified mail, return receipt requested. Keep a copy of your notice.
- If very serious conditions in your apartment force you to move before the end of your lease, you are still entitled to have your security deposit returned to you.

Death of a tenant or a tenant's spouse

The law provides that any lease for one year or more may be ended before it expires if the tenant or the tenant's spouse dies. The landlord must be given written notice of the lease termination by the tenant's executor or administrator, or the surviving spouse if the names of both spouses are on the lease. The lease termination becomes valid 40 days after the landlord receives written notice if (1) the rent owed up to that point has been paid; (2) the property is vacated at least five working days before the 40th day; and (3) the tenant's lease does not prohibit early termination upon the tenant's death. *Cite*: N.J.S.A. 46:8-9.1.

Note: When a lease is terminated because of the tenant's death, any property tax rebate or credit due and owing to the tenant before the lease termination is to be paid to the executor or administrator of the tenant's estate, or to the tenant's surviving spouse. Any landlord who fails to do this becomes liable to the tenant's estate or surviving spouse for twice the amount of the property tax rebate to which the tenant was entitled or $100, whichever is greater. *Cite*: N.J.S.A. 54:4-6.7; N.J.S.A. 54:4-6.11.

Tenant illness or accident

Any lease for one or more years may be ended before it expires if the tenant or the tenant's spouse becomes disabled due to an illness or accident. In such a case, the tenant or spouse must notify the landlord with the following documentation: (1) certification of a treating doctor that the tenant or spouse is unable to continue to work; (2) proof of loss of income; and (3) proof that any pension, insurance, or other assistance to which the tenant

© 2020 Legal Services of New Jersey

or spouse is entitled is not enough to pay the rent, even when added with other income. The lease termination becomes effective 40 days after the landlord receives the written notice. The property must also be vacated and possession returned to the landlord at least five days before the 40th day. *Cite*: N.J.S.A. 46:8-9.2(a).

Senior tenants needing to go to a nursing home or assisted living facility

The law permits senior tenants (people 62 year old or older) to break their leases if they have to move into a nursing home or an assisted living facility or a continuing care retirement community. To break your lease under these circumstances, the tenant must give the landlord written notice in advance. The notice must contain (1) a statement from the tenant's physician that the tenant needs the services provided by such a facility, and (2) a statement showing that the tenant has been accepted into such a facility *Cite*: N.J.S.A. 46:8-9.2 (b).

Senior tenants accepted into subsidized housing or other low and moderate income housing

Senior tenants (people 62 year old or older) who are not living in low or moderate income housing can break their leases if they have been accepted into subsidized housing or other housing for low and moderate income people. To break your lease under these circumstances, the tenant must give the landlord written notice in advance. Attached to the notice must be a written statement that shows that the tenant has been accepted into such housing and intends to move there. *Cite*: N.J.S.A. 46:8-9.2(c).

The law permits senior tenants (people 62 year old or older) to break their leases if they have to move to move into a nursing home or an assisted living facility or a continuing care retirement community.

Housing that is not handicapped accessible

The law permits tenants who are disabled to break their lease if the landlord, after notice, has failed to make the dwelling unit handicapped accessible to the disabled tenant or a disabled member of the household. To break your lease under these circumstances, you must notify the landlord in advance, and the notice must contain (1) a statement from your physician that you are permanently disabled, and (2) a statement that you asked the landlord to make the house or apartment accessible at the landlord's expense and that the landlord was unable or unwilling to do so. *Cite*: N.J.S.A. 46:8-9.2 (d).

© 2020 Legal Services of New Jersey

Domestic violence victims have the right to move

The New Jersey Safe Housing Act is a law that allows domestic violence victims and/or their children who are tenants to end their lease before it is over. The purpose of the law is to help victims who are tenants find safe, long-term housing. *Cite*: N.J.S.A 46:8-9.4.

Tenants must give written notice to the landlord

Under the law, a tenant must give the landlord written notice to end a lease early. The lease will then end 30 days after the landlord receives this notice. You are required to pay the rent until this 30th day.

The New Jersey Safe Housing Act is a law that allows domestic violence victims and/or their children who are tenants to end their lease before it is over.

The notice must tell the landlord that:

- Staying in the leased apartment or building will cause the victim/tenant or tenant's child or any child to face an immediate threat of serious physical harm from another person. For the purposes of this law, the definition of domestic violence has been expanded to include a threat against any child. The child does not have to be a child born to the victim and the abuser.
- The threat of serious physical harm comes from a specific person. (Tenants may not end a lease based on a general threat.) For example, this requirement would be met if the abuser knows where the victim lives and there has been a previous incident of domestic violence (even if it did not occur at the leased location).

The written notice must include other evidence of the threat

The victim/tenant must send other evidence (proof) of the threat with the written notice ending the lease. The other evidence should show the reasons the victim/tenant is facing an immediate threat of serious physical harm. The following documents are examples of acceptable evidence of the threat:

- A certified (official) copy of a final (not a temporary) restraining order based on the New Jersey Prevention of Domestic Violence Act protecting the victim/tenant from the same abusive person named in the written notice
- A certified copy of a final restraining order from another jurisdiction (state or country) based on the domestic violence law of that other jurisdiction protecting the victim/tenant from the same abusive person named in the written notice
- A law enforcement agency record (such as a police report) documenting the domestic violence or certifying (officially stating) that the victim/tenant or child of the tenant is a victim of domestic violence

© 2020 Legal Services of New Jersey

- The notes or reports of a doctor or nurse or other health care provider from a hospital or emergency room or private medical office describing injuries from the domestic violence
- A written certification (official statement) from a certified Domestic Violence Specialist or the director of a designated (officially recognized) domestic violence agency stating that the tenant or a child of the tenant is a victim of domestic violence
- Other documentation or certification from a licensed social worker that the tenant or a child of the tenant is a victim of domestic violence.

The documents that a victim/tenant sends with the written notice to the landlord are very important. Please note that:

- Any restraining order sent must be a final restraining order (FRO). A temporary restraining order (TRO) by itself is not enough, although a TRO sent with other acceptable documentation may help.
- The people who write reports or letters should state the reasons they are qualified to write the reports.
- The report or letter should explain what the person is relying on in order to talk about the victim of domestic violence. For example, the writers should mention any in-person meeting or any other documents that were reviewed.

It is recommended that the tenant be connected with their county domestic violence agency. For a list of these agencies, see the appendix of our handbook, *Domestic Violence: A Guide to the Legal Rights of Domestic Violence Victims in New Jersey.*

When will the lease end?

Thirty days after the landlord receives the notice and other documents, the lease will end and the victim/tenant may stop paying rent. The victim/tenant must pay rent until that 30th day.

If there are other tenants on the lease, the other tenants' lease also ends. The other tenants may enter into a new lease if the landlord chooses. The other tenants should not be removed from the home unless the landlord has good cause under landlord/tenant laws.

What about my security deposit?

If you end your lease and leave, the New Jersey Safe Housing Act states that the landlord must return your security deposit within 15 days after you are out. The law allows the landlord to keep part of the deposit if you damaged the apartment or owe rent. The landlord must send a notice to your last known address within three business days after you leave to let you know where you can go to get your deposit back. If the landlord has kept some of the deposit money, the written notice must also tell you why. If you do not agree with the reasons the landlord gives for keeping some of the deposit, you may sue

© 2020 Legal Services of New Jersey

the landlord in small claims court for two times the amount the landlord kept, plus any fees you pay if you have to hire an attorney to help you. *Cite*: N.J.S.A. 46:8-21.1.

What if I live in public housing?

If you live in public housing, or some other building that is subsidized, or have a Housing Choice voucher (also called a Section 8 voucher), you may have to take steps in order to end a lease.

- **Give proper notice.** The first step you should take is to look at your lease and see what it says about any notices you need to give to the Housing Authority or landlord if you want to get out of your lease. There is also a federal law, called the Violence Against Women Act, which can help you if you live in public or subsidized housing or have a voucher. *Cite*: P.L. 109-162.
- **Get the Housing Authority to help you.** The Housing Authority may evict the abuser and let you stay. Another step the Housing Authority or the landlord can take if you are in danger of being harmed by the abuser is to move you to another apartment. If you have a voucher, you may use the New Jersey Safe Housing Act to end your lease and move to another house or apartment. The Housing Authority in charge of your voucher should help you do this.

Whether you live in public housing or subsidized housing or have a voucher, one of the most important things you will need is some proof that you are a victim of domestic violence. The same kind of proof that is needed under the New Jersey Safe Housing Act should be enough. (This proof is described above.)

Personal information must be kept confidential

To be successful and end a lease under this law, you will have to reveal very personal information about your situation. The New Jersey Safe Housing Act requires that landlords and/or municipal clerks must keep it private and confidential. They are prohibited from revealing any information about the domestic violence. Landlords are also specifically prohibited from entering the information into any shared database, such as one that would be available to tenant screening companies or other agencies that generate tenant screening reports. The law does, however, allow the landlord to use the information with your consent, if necessary, for a future court proceeding about the tenancy.

© 2020 Legal Services of New Jersey

Chapter 6
Your Right to Safe and Decent Housing

The information in this chapter is accurate as of February 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

TENANTS FREQUENTLY COMPLAIN that their landlord will not repair such things as windows, locks, toilets, faucets, and heating systems when these break from normal wear and tear. Tenants also complain that their landlords do not do routine maintenance, such as pest extermination. You have a right as a tenant to live in housing that is safe, clean, and decent. This chapter explains this right and the laws that place a duty upon your landlord to maintain your rental unit in good condition. This chapter also explains the different steps you can take to have your landlord make needed repairs and do routine maintenance.

There are several different laws that require landlords to maintain tenant-occupied rental property in safe and decent condition. One of the most important ones is the warranty of habitability, which has been adopted and enforced by the courts. The other major laws about safe and decent housing are housing and health codes passed by the state, counties and towns.

The warranty of habitability

Landlords have a duty under New Jersey landlord-tenant law to maintain their rental property in a safe and decent condition. This duty applies to all leases, whether written or oral. The duty to keep rental units safe and decent is called the warranty of habitability. The warranty of habitability is based upon common sense: in return for paying rent to the landlord, the landlord must make sure that the housing is fit to be occupied by the tenant.

The warranty of habitability is judge-made law. It became the law in New Jersey because of decisions made by the New Jersey Supreme Court in the early 1970s. *Cite*: *Marini v. Ireland*, 56 N.J. 130 (1970); *Berzito v. Gambino*, 63 N.J. 460 (1973). There have been many New Jersey court decisions since then that have applied it to different situations and changing conditions. The warranty of habitability has been held to include keeping the basic elements of your housing unit in good condition. This includes taking care of physical elements, such as the roof, windows, walls, etc.; the systems that supply your heat, hot and cold water, and electricity and gas; appliances, such as the stove, refrigerator, and dishwasher; keeping apartments pest-free and common areas clean; and providing security against crime, such as locks on doors and windows to deter break-ins.

© 2020 Legal Services of New Jersey

You can enforce the warranty of habitability of withholding rent, making the repairs yourself and deducting the cost from the rent, or going to court. You can learn how to do this by going to the part of this chapter titled "How to get your landlord to make repairs."

State and local housing and property maintenance codes

Landlords have a duty under New Jersey landlord-tenant law to maintain their rental property in a safe and decent condition.

There are several codes adopted by the state or local governments that establish standards for maintaining rental property. You can enforce these codes by calling your state and local housing and health inspectors. These are trained personnel who inspect rental properties to enforce the codes and who are available to take complaints about code violations from individual tenants.

The New Jersey Hotel and Multiple Dwelling Code sets standard for all residential buildings in New Jersey containing three or more rental units. It is also known as the "multiple dwelling" code. This code is contained in state regulations issued by the New Jersey Department of Community Affairs. *Cite*: N.J.A.C. 5:10-1.1.

This code has detailed and specific rules that cover everything, including locks, window screens, ventilation, pests, plumbing, painting, garbage, living space, and so on. You can find these regulations in your courthouse library or public library. You can also look for it online.

Most counties, towns, and cities also have their own housing, health, or property maintenance codes. These codes usually apply to all buildings or apartments, not just multiple dwellings. Single-family houses and two-family houses are covered by these codes. Call your city hall or municipal building and ask for the housing inspector or building inspector or health inspector if you have any questions or problems, or would just like to see a copy of the local housing code. To learn how to do this, see the part of this chapter titled "How to get your landlord to make repairs."

Examples of some common issues and problems

Heat requirements

If your lease requires the landlord to provide heat, the landlord must give you the amount of heat required by the state and local housing codes and ordinances. Under the state Multiple Dwelling Code, which applies to almost all buildings containing three apartments or more, from October 1 to May 1, the landlord must provide enough heat

© 2020 Legal Services of New Jersey

so that the temperature in the apartment is at least 68 degrees between 6 a.m. and 11 p.m. Between the hours of 11 p.m. and 6 a.m., the temperature in the apartment must be at least 65 degrees. *Cite*: N.J.A.C. 5:10-14 et seq. The state Housing Code, a model code which has been adopted by many towns to cover one and two-unit rental buildings, has the same requirements. *Cite*: N.J.A.C. 5:28-1.12(m). Towns and counties that have adopted housing or health codes other than the state housing code to cover smaller rental buildings may have slightly different requirements.

The housing inspector or board of health in your town enforces the heat requirements in the state and local codes. Larger cities have special no-heat hotlines that are set up especially to handle complaints. The inspector can file a complaint in court on your behalf, or you can file your own complaint. The landlord must then appear in court and explain why he or she is not providing heat. The court can impose stiff penalties, including fines or jail sentences.

Lead poisoning

Lead poisoning is a dangerous health problem for many tenants, especially children. Lead poisoning is the presence of too much lead in the body. Children and unborn babies are particularly at risk of harm from lead poisoning since their bodies and nervous systems are still developing. Lead poisoning can cause serious physical and mental harm to adults and children. Don't wait to do something about it if you think you or your children may be exposed to lead in your apartment or home.

When children put their hands, pacifiers, or toys into their mouths, they can swallow lead dust and poison themselves.

A person can be poisoned by eating, drinking, or breathing lead or lead dust. Tenants—especially children under 6—are especially at risk for being poisoned by the water from the faucet or by paint in their apartment or house. Until 1978, lead was used in house paints. In older buildings, there is usually a lot of lead paint. Peeling or cracking paint in older houses and apartments can be dangerous. Outside paint can also have lead in it. Peeling paint on the outside of houses or porches can fall on the ground.

Children like the taste of paint chips, and they chew on window sills and paint chips that fall on the floor. Babies, toddlers, and preschool-age children like to put things into their mouths. In houses with peeling or cracking lead paint, lead dust can get on children's hands, pacifiers, and toys. When children put their hands, pacifiers, or toys into their mouths, they can swallow lead dust and poison themselves.

Lead can enter your or your children's bodies by breathing air with lead dust in it. Scraping paint off walls or vacuuming up paint chips from floors can spread lead dust

© 2020 Legal Services of New Jersey

around the house. Lead can poison an unborn child if the mother breathes lead dust.

Lead can also be present in dirt. For many years there was lead in the paint used for the outside of houses. When the paint deteriorated, or the houses were demolished, the lead built up in the surrounding soil. Lead does not decay or dissolve; it stays in the dirt until it is removed. Children should not eat dirt or play in bare soil.

Testing for lead poisoning. There is a blood test that shows if you or your children are lead poisoned. By law, all children under age 6 should be tested for lead. *Cite*: N.J.S.A. 26:2-137.4. Children from ages 9 to 36 months who live in older housing are at highest risk for lead poisoning. If you have a child under 6 years old who has not been tested, speak to your doctor.

Your doctor can do the blood test. There are also many childhood lead poisoning prevention projects that test children for free. Hospital clinics may also test blood for lead. Children participating in the Medicaid program must be tested for lead poisoning for free. For information on testing, call your local health department.

Removing or abating lead paint. If your home has lead paint that is creating a hazard, you can use all of the ways described in this chapter to force your landlord to remove it, such as withholding your rent or asking for a rent abatement. The law also requires owners of apartment buildings to follow lead-safe maintenance requirements. *Cite*: N.J.A.C. 5:10-6.6.

Lead poisoning is a serious health hazard. If you or your children test for high levels of lead in your blood, there may be lead paint in your apartment or home or the dirt outside. You should immediately get advice and help from Legal Services on how to force your landlord to remove the lead paint as quickly as possible. You can also contact a private attorney to discuss whether or not you can sue your landlord for damages for harm caused by lead paint.

Because lead poisoning is so harmful, there are other laws that you can use. The law prohibits using lead paint in many things, including the inside or outside of apartments or houses. And lead paint that is already there should be removed or covered so that it doesn't poison anyone. Dirt that is contaminated with lead should be removed. The law says that hazardous lead paint on inside or outside walls of a house or apartment is a "public nuisance" that must be removed by the landlord. *Cite*: N.J.S.A. 24:14A-5; N.J.S.A. 55:13A-7.

The local health department must investigate violations of lead paint laws and force the landlord to remove lead paint. If anyone in your family is tested and has a high level of lead in their blood, you should call the health department and ask them to inspect your home immediately.

If the health department finds that a child under age 6 has a high blood lead level, then the health department will test the inside of the home for lead. If there is no lead hazard inside the home, the outside of the building will be tested. If no lead hazard is found on the inside or outside walls, the local health department will test the surrounding dirt.

© 2020 Legal Services of New Jersey

When there is a lead hazard identified, the health department must order the owner of the building to remove the lead hazard. To correct the problem, the owner can cover the surface with hard material or remove the lead paint and repaint with non-lead paint. In some circumstances, tenants will be placed in another location at the owner's expense while the owner corrects the lead hazards in the rental unit.

The health department will give tenants or occupants a copy of its notice to the owner so that they know what the health department has ordered the owner to do.

Support to help tenants relocate and landlords remove lead. New Jersey has established an Emergency Lead Poisoning Relocation Fund. *Cite*: N.J.A.C. 5:48-3.1. This fund provides temporary or permanent relocation assistance to tenant families whose children have tested positive for lead poisoning.

New Jersey law also provides for loans up to $150,000 and grants, to landlords, based on financial need. The Lead Hazard Control Assistance Fund is a pool of grants and low-interest loans set aside for landlords who cannot afford the costly process of removing lead-based paint from aging buildings.

Window guards

Landlords of multiple dwelling units are required, at the tenant's written request, to install and maintain window guards in the public halls and in the apartment of any tenant who has a child 10 years old or younger who lives in the apartment or who is regularly present in the apartment for a substantial amount of time. *Cite*: N.J.S.A. 55:13A-7.13; N.J.A.C. 5:10-27.1.

The law requires that all leases offered to tenants in apartment buildings must notify the tenants of their right to have window guards installed. *Cite*: N.J.A.C 5:10-27.1. The law also requires landlords to give tenants at least two annual notices that tell tenants that they can make a written request to have window guards installed. (One of these notices can be in a new or renewal lease.)

The cost of installing window guards may be passed on to the tenants, but landlords are not allowed to charge more than $20 per window guard. Note that window guards are not required on any first-floor windows or on any windows that give access to a fire escape. Owner-occupied buildings and some other buildings, such as seasonal rentals, are also exempt from this requirement. *Cite*: N.J.S.A. 55:13A-7.13(b). Please note that units used by migrant or seasonal workers in connection with any work or place where work is being performed are not considered "seasonal rentals." These landlords are also required to inform tenants and install window guards in compliance with the law. *Cite*: N.J.S.A. 55: 13A- 7.13(b)(2).

Landlords are required to inspect window guards twice each year to make sure they are working properly and to record the inspections in a log for that purpose.

Tenants may complain to the Commissioner of the New Jersey Department of Community Affairs to enforce the law, and they may impose penalties and fines under the Hotel and Multiple Dwelling Law. *Cite*: N.J.S.A. 55:13A-1.

© 2020 Legal Services of New Jersey

Any tenant who wishes to have a window guard removed will have to submit a written request to his or her landlord.

If you have small children and have not been notified about window guards, you may want to talk to a lawyer to find out if you are covered by this law.

Bed bugs

Bed bug problems were common in America before World War II. Because of widespread use of the pesticide DDT, they became less of a problem during the 1950s and 1960s. By 1970, bed bugs had been almost wiped out in this country. They could be found in Africa, Asia and parts of Eastern Europe, but they were rarely ever seen here.

That is not true anymore. As most tenants already know, bed bugs are back. Scientists discovered that DDT was extremely dangerous for people and animals. DDT was banned, and it has finally been almost eliminated from the environment. That is good for people, but it is also good for bed bugs. Because other pesticides do not do a good job of killing them, bed bugs have not only returned but they are also spreading very rapidly. More and more bed bugs are turning up in apartment buildings and homes, motels and hotels, health care facilities and dormitories, and every other place where people live.

Learning about bed bugs. Bed bugs are small, brown, flat insects. They feed only on the blood of people and animals. Bed bugs are active mainly at night. During the day they prefer to hide close to where people sleep. Bed bugs can easily hide in tiny cracks and crevices, such as those found in mattresses, box springs, other pieces of furniture, walls, floors, ceilings, suitcases—you name it, bed bugs can probably hide in it.

If an apartment has bed bugs you can usually see them if you look in the right places, such as between a mattress and a box spring. Sometimes you can tell bed bugs are around because you see dark spots or stains on sheets and blankets. Sometimes you even see blood stains in a bed caused by the crushing of bed bugs. One good thing is that, so far, bed bugs have not been shown transmit diseases to people. But that does not mean much to adults and children who are covered with bed bug bites. Bed bugs make people feel bad physically, emotionally and mentally. An apartment filled with bed bugs is not fit to live in.

There are some other important things to know about bed bugs. One is that being a good housekeeper does not guarantee that you won't have bed bug problems. Bed bugs are "hitchhikers." They usually get into a home or apartment by hiding in luggage, clothing, furniture, or other things. Beg bugs can also get in by hiding in the clothing of tenants, landlords, superintendents, tradespeople, home health aides, people delivering meals or mail—even exterminators.

Because bed bugs only feed on the blood of people and animals, once they get in an apartment cleaning alone will not get rid of them. (Even if the people leave, that does not mean that the bed bugs will die. Bed bugs can live for a year or more without food.)

Another thing to know about bed bugs is that trying to get rid of them by using pesticides alone does not work. The poisons that do kill them must be sprayed right on them.

© 2020 Legal Services of New Jersey

Once the pesticides have dried, they don't work on the bed bugs.

Another problem is that bed bugs often live in used furnishings—especially beds and couches and other used items. One of the best ways to avoid them is not to use buy second-hand things. But lower-income people often cannot afford new furniture. Landlords may try to blame the tenants if there are bed bugs in an apartment saying that they should not have bought used furniture. This is unfair. There is almost no way a landlord can prove for sure how bed bugs got into an apartment because there are so many ways that hitchhiking bed bugs can get in.

Ways to get rid of bed bugs. The best way to get rid of bedbugs involves using more than one treatment. Good exterminators will spray pesticides on bed bugs they can see. They will also spray them into cracks in furniture and walls where bed bugs are probably hiding. Good exterminators will put things like furniture and appliances into bags and then pump in high heat or cold, which is a good way to kill bed bugs. Putting clothes, shoes, toys and other items in a clothes dryer at medium to high heat for up to 20 minutes will also kill them. And sometimes there is no choice but to throw infested things away. But even doing all of these things does not guarantee that the bed bugs will be gone right away. It often takes many tries before they are finally eliminated.

Getting rid of bed bugs is hard. Doing all the things needed to eliminate them can be really hard on older tenants, on tenants with disabilities, and on families with young children. This is especially true if the tenants have to get rid of things, like cribs or beds or mattresses that they can't afford to replace.

Knowing your rights is important. If you are a tenant with a bed bug problem, it is important for you to know your legal rights. It is also important for you to do the things you need to do to protect yourself from being blamed for a problem that you didn't cause. What your rights are, and what you need to do, depend on the kind of building you live in.

If you live in a building with more than one apartment, you should notify the landlord in writing as soon as you see bed bugs in your home. (Send the notice certified mail, return receipt requested, and keep a copy for yourself.) Since anyone, including the landlord's' workers, could have brought the bed bugs in, it will be very hard for the landlord to prove that any one tenant is the cause of the problem. That's why it is important for tenants to keep their apartments clean. An apartment that is not clean will not cause a bed bug problem. But you can be sure that the landlord will try to blame the tenant if the apartment is not clean. This could cause a problem for the tenant if the case goes to court. On the other hand, keeping a clean apartment will make it very hard for the landlord to try to blame a tenant for bed bugs.

The courts in New Jersey have said that it is a landlord's duty to provide his or her tenants with a safe, livable apartment, one that is not infested with bugs or other things. This is called the "warranty of habitability." Unless the landlord can prove that the tenant caused a problem, it is the landlord's duty to fix it. This is true in the case of bed bugs as well. Since a landlord can't really prove who caused a bed bug problem, the landlord must hire good exterminators to get rid of them.

© 2020 Legal Services of New Jersey

If you live in a building containing three or more apartments, state regulations known as the "Hotel and Multiple Dwelling Health and Safety Code" also say that it is the landlord's duty to get rid of bed bugs if they are in more than on apartment. The Code also makes it the landlord's job to take good care of the building in order to prevent infestation problems. (The number given by the state to the Code is N.J.A.C. 5:10-10.2.)

If you live in public housing, the federal Department of Housing and Urban Development (HUD) has made it clear that the public housing authority is responsible for the cost of exterminating bedbugs. *Cite*: HUD Notice PIH-2012-17. Another HUD Notice imposes the same responsibility on private owners of federally-subsidized housing. However, this notice does say that in certain cases tenants can be responsible for paying for extermination if they do not do what is necessary to prevent or eliminate bed bug problems. *Cite*: HUD Notice H-2012-5. Both notices emphasize that tenants are responsible for telling the Housing Authority or landlord about bed bug problems as soon as they know they have them.

If you rent a single-family house, or rent one apartment in a house with only two apartments, the laws are a little different. Local housing codes make it your responsibility to exterminate bed bugs or other pests, unless you can show that the problem was caused by the landlord not taking good care of the building. However, if the bed bugs are there when you move in, or there are bed bugs in both apartments in a two-family house, then it is the landlord's duty to get rid of them.

Just like tenants in larger buildings, you should notify the landlord in writing as soon as you see bed bugs in your home.

Getting legal advice and help is important. Where bed bugs are concerned, you should get legal advice and assistance if:

- You live in a building with two apartments or more and your landlord tries to make it part of your lease that you will be responsible for getting rid of bed bugs.
- Your landlord wants you to pay to get rid of bed bugs in your apartment. Even if you live in a single family house, you should get legal advice before you pay for extermination.
- Your landlord refuses to do anything to get rid of bed bugs in your apartment.
- The exterminator that comes to get rid of bed bugs wants you to do things that will be very hard on you and your family, such as throw away furniture that you can't replace. These may be the right things to do, but you should get advice to make sure that the exterminator knows what he or she is doing.
- You do have to throw things away. You should get legal advice to find out if an agency or community organization must or can help you replace them.
- Your landlord says he is going to evict you or sue you because of the bed bugs. If this happens, you should get legal help immediately.

© 2020 Legal Services of New Jersey

Your local Legal Services office will be able to help you if you qualify based on your income. A list of Legal Services programs can be found on the back of this manual.

If you find bed bugs in your home, the important thing is not to wait to do something. The best way to deal with bed bug problems is to get help as soon as possible.

How to get your landlord to make repairs

The law gives you several ways to assert your right as a tenant to safe and decent housing and to make your landlord repair defective conditions in your rental unit. You have the legal right to:

- Call in the building or health inspector,
- Use your rent to make repairs,
- Withhold your rent, and
- Take legal action.

Note: If you live in a building that was built with the help of state funding, the landlord must hold a meeting for all the tenants every three months, so that the tenants can discuss complaints they have about conditions in the building. (A meeting would not have to be held if a majority of the tenants voted not to hold it.) *Cite*: N.J.S.A. 55:14K-7.3; P.L. 2007, c. 8.

Using the housing and health codes

As discussed in the preceding section, rental units must meet city and state housing and health codes. The codes list the requirements that the landlord's property must meet so that it can be approved as a safe or "standard" building. The codes deal with heat, plumbing, security, roofing, pests, and other serious defects like weak walls.

If you feel that the conditions in your apartment or house are defective, unlivable, or dangerous, tell your landlord.

If you feel that the conditions in your apartment or house are defective, unlivable, or dangerous, tell your landlord. If your landlord fails to make the repairs in a reasonable period of time, call the local building inspector and ask him or her to inspect the property as soon as possible. If you can, be present when the inspector does the inspection so that you can point out all of the problems. Ask for the inspector's name, and ask him or her to send you a copy of the report.

If the needed repairs present a sanitation problem, such as a sewage leak, call the city or county board of health. Ask for an inspector to check the condition. When the inspector comes, get his or her name.

© 2020 Legal Services of New Jersey

If the inspector finds code violations, he or she will send a letter to the landlord listing the code violations. This letter will advise the landlord that a reinspection to check whether the repairs have been made will take place on a certain date.

Some housing and health code inspectors do not send the tenant a copy of the inspection reports or inform the tenant of the results of the inspection. As a tenant in the property, you have a right to receive a copy of these reports, and you should make sure to ask that copies of all reports be sent to you.

Reinspecting a housing unit

If your housing unit fails inspection, it must be re-inspected by the housing or health code inspector. You might find that a reinspection does not take place. If this happens, you should call the inspector and inform him or her that the landlord has not made the required repairs.

If, on reinspection, the inspector finds that the landlord has not made the repairs, another inspection will be scheduled. If violations are still not corrected, the building inspector should then give a summons to the landlord to appear in municipal court. If found guilty, the landlord can be fined.

Enforcement of housing and health codes is not always taken seriously by local government officials. Few landlords are brought to municipal court for violations of the property maintenance code, and even fewer are ever fined in court. Tenants must aggressively insist that inspections and reinspections be done thoroughly and in a timely manner and that inspectors take landlords who don't comply with the code to court.

Condemning or closing a building

The housing and property maintenance codes allow inspectors to declare a house or apartment building "unfit for human habitation" if there are serious defects in the rental unit or building. These defects must pose a threat to the health and safety of the tenants. A collapse in the structure of a building or an absence of heat or hot water are the types of situations that may warrant declaring a building unfit. By declaring the building unfit, the inspector can order you to leave your rental unit and close the building.

Inspectors can declare a house or apartment building "unfit for human habitation" if there are serious defects in the rental unit or building.

There have been cases where an inspector has condemned a building even though the defective conditions were not serious enough to force tenants to leave the building. For example, a landlord seeking to convert a building into condominiums could get the tenants out of the building with the inspector's help, thereby avoiding the requirements of the condominium conversion laws. *Cite*: *49 Prospect Street v. Sheva Gardens,* 227 N.J. Super. 449 (App. Div. 1988). If you suspect that the housing inspector or your landlord is trying to

© 2020 Legal Services of New Jersey

illegally force you out of your home, you should get advice from a lawyer. (See "Finding a lawyer" in Chapter 1.)

If the building inspector tells you in writing to move because the building has been declared unfit, you might be entitled to relocation assistance from the local government. Relocation assistance includes help in finding a new place to live, moving expenses, and up to $4,000 in assistance towards buying or renting a house or apartment. *Cite*: N.J.S.A. 52:31B-1 et seq. and N.J.S.A. 20:4-1 et seq. (See "Relocation Assistance" in Chapter 12.)

Using the board of health to get heat

Many local boards of health have the power to make repairs to heating systems so that you can receive heat. Your local government must have enacted an ordinance that gives the board of health this power. Even with an ordinance, the board of health can act only if the temperature outdoors is below 55 degrees. To get action, you must call the board of health and tell them that you tried to get the landlord to fix the heat. The board will then wait 24 hours before they have someone make the repairs. *Cite*: N.J.S.A. 26:3-31(p) and *Jones v. Buford*, 71 N.J. 433 (1976).

What if the heating oil runs out?

Some New Jersey cities have programs to provide an emergency delivery of oil, at government expense, when tenants have no heat because the landlord did not buy oil. The city then collects the money directly from the landlord. Check with your local government to find out about such programs.

Using the rent to make repairs: repair and deduct

Under certain conditions, tenants can use the rent money to make the repairs. After making the repairs, the tenant subtracts the cost of the repairs from the rent instead of paying it to the landlord as rent. This is called repair and deduct. There are certain rules for repair and deduct that you must follow:

- The conditions that are in need of repair must be serious enough to affect the tenant's health or well-being.
- The tenant must first give the landlord proper notice stating that repairs are needed and then give the landlord a reasonable amount of time to make the repairs. The notice should be in writing and sent by certified mail, return receipt requested.
- After waiting a reasonable amount of time, the tenant should have the repair done and pay for it with all or part of the rent money.
- The cost of the repair must be reasonable.
- The tenant then should deduct the cost from the next rent payment and give the

Under certain conditions, tenants can use the rent money to make repairs.

© 2020 Legal Services of New Jersey

To use repair and deduct, the conditions that are in need of repair must be serious enough to affect the tenant's health or well-being.

landlord a copy of the receipt for the repair. *Cite*: *Marini v. Ireland,* 56, N.J. 130 (1970).

Example: The toilet in your apartment doesn't work. You let the landlord know in writing that it is broken. Several days go by and the landlord does not repair it. You then call a local plumber to fix the toilet, pay the plumber, and get a receipt. The cost of the toilet repair is $50. When the rent is due the next month, you give the landlord the rent money, minus the $50 for the repair, instead of the full amount of the rent. You give the landlord a copy of the plumber's bill and keep the original copy for yourself.

In an emergency situation, if you can't reach the landlord in person or by telephone, you can have the repairs made and then tell the landlord.

The use of repair and deduct sometimes leads to disputes between the landlord and tenant. A landlord may try to hold you responsible for the full rent even if you used the rent to repair a serious defect. In this situation, the landlord may try to evict you in court for nonpayment of rent. If you show the judge a copy of the letter you sent asking the landlord to make the repair and a copy of the repair receipt, the judge should not hold you responsible for the full rent. However, the judge may not agree with you, and may hold you responsible for the full rent. Therefore, you should try to take the entire amount of rent with you to court.

Withholding rent

Where a landlord simply refuses to make needed repairs, tenants often have little choice but to stop paying rent. This is called withholding the rent if it involves one tenant. If some or all of the tenants in one building or complex withhold rent as a group, it is called a rent strike. By withholding rent, tenants put pressure on the landlord to make repairs, and they avoid paying for services they are not receiving. Withholding rent is perfectly legal and often can be the only way to force the landlord to make necessary repairs.

How to start withholding rent

There are two steps you must take if you decide to withhold rent to force the landlord to make repairs:

1. You must send a letter to the landlord explaining what conditions must be corrected. The letter should explain that you will stop paying rent if the repairs are not done right away, and that you will not pay more rent until all of the repairs are completed. You should also explain that, once the repairs are completed, you will pay a reduced rent from the time the repairs were needed until the time the repairs

© 2020 Legal Services of New Jersey

are completed. The letter should be sent by certified mail, return receipt requested, and you must keep a copy of the letter since you may need it later in court.

2. You must save the rent you withhold each month and put it in a safe place. A bank account is a good place to deposit the rent each month because you will earn interest on the money. Saving the rent is the most important thing you can do. You are withholding rent, not spending it on something else!

What to expect

Landlords need the rent money to pay bills and make a profit. Rent withholding denies the landlord this money each month. Some landlords will decide to make all of the repairs or make an agreement with tenants to make repairs in return for paying the withheld rent and starting to pay rent again. If you reach such an agreement with your landlord, make sure that it is in writing.

You cannot be evicted for nonpayment of rent if you have saved all of the rent and you appear in court with it on the day you are summoned.

Some landlords will try to scare tenants by sending letters and notices threatening eviction instead of making the repairs. If your landlord does this, you should expect that sooner or later the landlord will bring a complaint in court for your eviction for not paying rent. (See Chapter 8, "The Tenant's Right to Court Process.")

NOTE! This is where saving the rent you withheld becomes very important. You cannot be evicted for nonpayment of rent if you have saved all of the rent and you appear in court with it on the day you are summoned.

You should tell the judge that you withheld your rent because of the bad conditions. The judge may require you to deposit the withheld rent with the court clerk. It is very important that you have all of the rent money at that time because, if you don't have the money, you may be evicted. The judge will then schedule a second hearing to hear evidence about the conditions in your apartment. This is called a rent abatement hearing and is described in the next section.

Rent abatements

The rent abatement hearing gives you the chance to show the judge just how bad the conditions are in your apartment or in the common areas of the building. Make a list and take it with you to court to remind yourself when you testify. You should take the copy of the letter that you sent notifying the landlord of your decision to withhold rent and about the defective conditions in the apartment or house. You should also take any reports by housing or health code inspectors about the conditions. If you can, take pictures of holes, stains, and other problems and show them to the judge.

The judge hearing your case has the power to lower the rent for the months in which you withheld your rent. The judge can then allow you to keep the difference between

© 2020 Legal Services of New Jersey

your regular rent and the lower rent for the months you withheld rent. The judge also may allow you to pay the lower rent in the future until the landlord makes all of the repairs. The judge will list each repair that must be made before the rent can be returned to its regular amount. This is called a rent abatement order.

The amount that your rent is lowered depends on how bad the judge finds the conditions to be. If the conditions are so bad that the apartment or house is unlivable, the judge can reduce the rent to nothing and order that you don't have to pay rent until the landlord takes care of the problems. This is why you should try as best as you can to fully describe each problem you are having so that the judge understands the difficulties you are having in your everyday life.

It is important that you use rent withholding only if the problems in your house or apartment are serious and only after you have given the landlord notice. At a rent abatement hearing, the judge could also decide that the conditions are not bad enough to justify your actions and require that you pay all of the withheld rent. If this happens, you may be responsible for paying court costs, late charges, and the cost of the landlord's attorney's fee. (See Chapter 10, "Defenses to Eviction.")

Settlement in court

In court, you may reach a settlement with the landlord before going to trial. If the landlord agrees to make the repairs, put this in the settlement agreement. If the landlord later does not make the repairs as promised, you can sue to enforce the agreement.

Tenants joining in a rent strike

A rent strike is rent withholding by some or all of the tenants with the same landlord. A rent strike increases the pressure on the landlord because, as more tenants withhold rent, the landlord will have less money coming in. Working as a group, tenants also stand a better chance in court. It will be harder for the landlord to convince the judge that any one tenant is somehow responsible for the defective conditions or for the landlord to deny that the defects exist. Instead, each tenant will be able to back up what each other says in court. Tenants who act together greatly improve their chances of getting the court to put pressure on the landlord through a large abatement.

As more tenants join in the rent strike, the housing and health code inspectors will be more likely to put more pressure on the landlord to make repairs. Working together also increases the possibility that the tenants can hire a lawyer. With a lawyer, you may have a better chance of getting the judge to order repairs or appoint a receiver. A rent strike is often the best way to force a resistant landlord to deal with poor housing conditions.

Court order to repair

Instead of rent withholding, tenants can go directly to court and ask the judge to order the landlord to pay for repairs. This type of lawsuit is filed in the Small Claims Court and can include a request that the judge order the landlord to pay money back for repairs

© 2020 Legal Services of New Jersey

made by the tenants. *Cite*: R.6:1-2(a)(2).

Tenants should talk with their regional Legal Services office, tenants organization, or a private lawyer if they want to know more about using Small Claims Court or if they are not sure about how they should fill out the papers required to file a Small Claims complaint.

Tenants can go to Small Claims Court and ask the judge to order the landlord to make repairs.

Rent receivership

New Jersey has two laws that allow tenants or public officials to file a petition with the court to appoint a receiver to run the building or complex. The petition, which must be filed in Superior Court, asks the judge to name someone other than the landlord to collect all of the tenants' rent payments and to use the money to make repairs to the building. The person who is named by the court to collect rents and order repairs is called a rent receiver. *Cite*: N.J.S.A. 2A:42-85 and N.J.S.A. 2A:42-114.

A judge will usually consider granting the petition when the landlord has a history of refusing to correct conditions that deprive the tenants of heat, water, electricity, or other essential services. A rent receiver is usually appointed by the judge only when repair and deduct, rent withholding, and other attempts to have repairs made have failed.

The following example shows how this law works. The elevator in a five-story building breaks down. The landlord is notified in writing but does not respond. The cost of fixing an elevator or replacing it can be several thousand dollars. If only one tenant withholds rent, it will take years to raise the money. Under the receivership law, one tenant can ask the court to order all of the other tenants in the building to pay the rent to the court or to a bonded receiver. The receiver can then use the rent from all of the tenants to fix the elevator. The law sets up a fund to help some receivers make repairs. *Cite*: N.J.S.A. 2A:42-114.

Petitioning for a rent receiver requires the help of an attorney. Keep in mind that, if the landlord is trying to evict you because you withheld rent due to very bad conditions in your building, the judge, on his or her own, can begin the process of having a receiver appointed. You may want to ask the judge about this during a rent abatement hearing if your landlord is completely uncooperative and the conditions in your building are serious. *Cite*: *Drew v. Pullen*, 172 N.J. Super. 570 (App. Div. 1980).

Going to the landlord's insurance company

Another way to put pressure on the landlord to make repairs is to complain to the landlord's property insurance company about conditions that are a safety hazard. In towns with rent control, the name of the insurance company will appear in bills the landlord submits in connection with a hardship increase application. In other places, it may be more difficult to learn the name of the landlord's insurance company.

© 2020 Legal Services of New Jersey

Chapter 7
Your Rights When Your Rent Is Increased

The information in this chapter is accurate as of February 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

TENANTS OFTEN ASK if they have any rights when the landlord asks for a rent increase, especially if their landlord has raised the rent in the past and the tenant is at the point where he or she can no longer afford to pay any more. The answer to this question is yes. As this chapter explains, landlords can only increase the rent if they follow the correct procedure to end the lease at the old rent and create a new lease at the increased rent. A landlord cannot ask for a rent increase that is unconscionable (unreasonably excessive). If the tenant lives in a community with rent control, the rent increase cannot exceed the amount allowed under the rent control ordinance. And if the tenant lives in public or subsidized housing, or has a rental assistance voucher, the special laws that cover those programs will determine how much the tenant will have to pay out of her/his own pocket.

The correct way to increase the rent

The law requires a landlord to take certain steps in order to make you pay an increase in rent. First, your existing lease at your present rent has to end. This means that the landlord cannot increase the rent during your lease. For example, if you have a lease for a one-year period, the rent cannot be increased during the period of the lease. To raise the rent, the landlord has to wait until your lease is about to expire and then take action to end your lease.

If you don't have a written lease, you are a month-to-month tenant. (See Chapters 4 and 5 for information about your rights as a month-to-month tenant.) To raise your rent, the landlord has to give you a legally proper written notice at least 30 days before the rent increase goes into effect.

Second, the landlord has to give you a proper written notice and offer you the option of entering into a new lease after the old lease expires. This new lease may be at a higher rent. The next section describes how a landlord must end your lease and offer you a new lease at a higher rent.

Notice terminating lease and notice of rent increase

The law requires that, for a landlord to raise your rent, you must be given proper written notice. If you have a written lease, a proper notice must be given at least one full

© 2020 Legal Services of New Jersey

month before the lease is set to end. (If the lease provides for a longer period, then the notice must be sent at the time set in the lease.) The notice must inform the tenant that the current written or oral lease is being ended and that the tenant can stay in the rental unit by signing a new lease at a higher rent.

To raise the rent, the landlord has to wait until your lease is about to expire and then take action to end your lease.

If you are a month-to-month tenant, even if you don't have a written lease your landlord must still give you a proper written notice in order to raise your rent. A proper notice must explain that your existing lease will be terminated or ended in one full calendar month. You must receive this notice at least one month before the month the landlord wants you to start paying the new rent. Note: Even though the notice needed to raise your rent must say that your lease or tenancy is ending or being terminated, this does not mean you have to move. The law simply requires that these words be used. In New Jersey, tenants can only be evicted by a court, and then only for a fixed number of reasons. (See Chapter 8, "The only grounds for eviction.") One of these reasons is not that your lease is up. The landlord must renew the lease, although the landlord can propose reasonable changes to your rent or other terms of your old tenancy.

In addition to ending the lease, the notice must also say that, at the end of your current lease, you have the choice of accepting a new lease at the higher rent. If you decide to sign the lease and stay on as a tenant, you must pay the rent increase. *Cite: Harry's Village, Inc. v. Egg Harbor Twp.*, 89 N.J. 576 (1982).

Remember, any notice of a rent increase that is not in writing and is not divided into two parts—(1) ending the old lease, and (2) beginning a new lease at a higher rent—is not legal, and you do not have to pay the increase.

If you don't pay the increase

If the landlord asks for a rent increase, and you decide to stay but not pay the increase, you are not agreeing to the increase. You should be aware that, if you do this, the landlord can try to evict you in court under the Anti-Eviction Act. The law allows landlords to evict tenants for nonpayment of a rent increase. *Cite*: N.J.S.A. 2A:18-61.1(f). (See Chapter 8, "The Causes For Eviction.")

In court, you can argue to the judge that the landlord did not give you proper notice and therefore you do not have to pay the increase until the landlord has given you the right notice.

If you succeed with this argument, the judge will dismiss the eviction complaint. The judge could also find that the landlord gave you the proper notice of a rent increase. This

© 2020 Legal Services of New Jersey

means that, unless the increase is "unconscionable" (see the next section) or in excess of the amount allowed by rent control, you will be evicted unless you pay the increase. *Cite*: N.J.S.A. 2A:18-61.1(f).

Unconscionable rent increases

Under the Anti-Eviction Act, a landlord cannot make you pay an increase in rent that is so large that it is unconscionable, meaning that it is extremely harsh or so unreasonable as to be shocking. Unconscionability is not important to tenants if the apartment, house, or mobile home is covered by a rent control ordinance adopted by the city or township. In that situation, rent control limits the amount of the rent increase. Also, if you live in subsidized housing, or receive Section 8, federal law will determine how much your rent can be increased. In all other cases, the only protection you have is that the statute states that the rent increase cannot be unconscionable. *Cite*: N.J.S.A. 2A:18-61.1(f).

Whether an increase is unconscionable depends on the facts of each case. The eviction law does not state what makes an increase unconscionable. In deciding disputes between tenants and their landlords over rent increases, judges have not defined how large an increase must be in dollars or percentages to be unconscionable. It is clear that some rent increases are unconscionable because the increase is much larger than the prior rent, or because the landlord has asked for many small increases in a short period of time that all add up to a large increase.

For example, an increase of over 20 percent, if made by the landlord without a very good reason, could be unconscionable. Even a five percent increase could be unconscionable if the conditions in the building are very bad and the landlord has failed to make needed repairs.

If you believe that the rent increase your landlord is asking for may be unconscionable, you can refuse to pay the increase. Your landlord can then take you to court to try to evict you for nonpayment of the rent increase. If the notice ending your lease and increasing your rent is proper, then you can defend against the increase in court by arguing that the increase is unconscionable.

Burden of proof

If the landlord takes you to court, it will be up to the judge to decide if the increase is unconscionable and if you have to pay the increase or be evicted. The burden of proof is on the landlord to show that the rent increase is fair and not unconscionable. *Cite*: *Fromet Properties, Inc. v. Buel*, 294 N.J. Super. 601 (App. Div. 1996). If the landlord is not prepared to prove that the increase is fair when the matter is scheduled for trial, the court can grant an adjournment (postponement) in the interest of justice.

In eviction cases, tenants are not allowed to examine the landlord's books or documents before the trial. Problems will arise if a landlord comes to court with detailed records that a tenant has never seen and may want to challenge. If this happens, the tenant should ask for an adjournment in order to have time to review the landlord's documents.

© 2020 Legal Services of New Jersey

In a complicated case, the tenant may also ask the court to transfer the matter to a different court—the Law Division of the Superior Court—in order to review the landlord's records and challenge them through legal procedures such as discovery.

What does the landlord have to prove?

The judge should require the landlord to show that the large increase sought is justified because his expenses are more than his rental income, or that he is making an insufficient profit. Other factors that the court may look at in deciding whether a rent increase is fair and not unconscionable are:

- The amount of the proposed rent increase. (Even if the amount of the new rent the landlord wants to charge appears reasonable, the amount of the increase could still be unconscionable. For instance, if the landlord kept the rent low for many years, but now wants to raise the rent all at once to catch up, the tenant could argue that this is both unreasonable and unconscionable. What would be fair is to spread the big increase over a few years.)
- How the existing and proposed rents compare to rents charged at similar rental properties in the same geographic area.
- The relative bargaining position of the parties—who has the most power in determining what should be a fair rental.
- Based on the court's general knowledge, whether or not the proposed rent increase would "shock the conscience of a reasonable person." *Cite*: *Fromet Properties, Inc. v. Buel,* 294 N.J. Super. 601 (App. Div. 1996). There also may be other factors that courts will examine.

For example, if a landlord claims heavy expenses due to repairs, the landlord should be required to show that improvements were made to the rental units or the building and that these improvements mean better living conditions for tenants. Also, if a landlord spends a lot of money to make a major repair that will last for many years—such as replacing the entire roof of the building or buying all new refrigerators—the tenants should not have to pay the entire cost of the repair in a single rent increase. The increase should be spread out over the life of the repair. (For example, if a landlord spends $15,000 to replace a roof, and the new roof will last 15 years, the rent increase passed on to all the tenants should only be for $1,000 total, since the tenants will be paying that amount each year for the next 15 years.)

A landlord should not be allowed to charge tenants for improvements that the landlord had to make to bring the building into compliance with housing and health codes.

A landlord should not be allowed to charge tenants for improvements that the landlord had to make to bring the building into compliance with housing and health codes. Tenants have a right to

© 2020 Legal Services of New Jersey

safe and decent housing and should not be penalized simply because a present or former landlord did not make repairs to the building. *Cite*: *Orange Taxpayers Council, Inc. v. Orange*, 83 N.J. 246 (1980).

Some judges do not, however, take these factors into account when ruling on whether a rent increase is unconscionable. Instead, there are judges who believe that landlords can double or triple the rent simply by showing that other apartments in the area are renting for a similar amount.

Once the landlord tries to prove that the rent increase is fair and not unconscionable, a tenant can dispute the accuracy of the landlord's statements and try to show that the increase simply is not fair.

Increases under rent control

Rent increases are also limited to the amounts allowed under a local rent control ordinance if the community has adopted rent control and the rental unit is covered by rent control. More than 100 cities and townships in New Jersey have passed rent control ordinances. To find out if your city or township has rent control and if it covers your unit, you should call your city or township hall. If there is rent control where you live, they will put you in touch with the person in charge of rent control cases. You can then ask for information about your situation and for a copy of the city's or town's rent control ordinance. The ordinance will state how much and how often your rent can be raised.

There are two types of rent increases allowed by most rent control ordinances. First, the ordinances allow landlords to automatically increase the rent by a certain percentage each year. This is called the annual increase. Second, the ordinances allow landlords to apply to the rent control board for an increase above the annual amount. This is called a hardship increase.

Hardship increases

Rent control ordinances allow landlords to apply to the rent control board for a hardship increase. A hardship increase is an additional increase, beyond the regular annual increase, if the landlord is not making a "fair rate of return" or "fair return." However, courts have said that towns can limit the landlord's profits to amounts that are fair even if the profits are less than the landlord wants, or less than the landlord could get by investing money elsewhere.

Most rent control ordinances use a formula to determine fair return. These formulas vary. Some fair return formulas are easier to understand than others, and some are more fair to tenants. Check your rent control ordinance for the fair return formula used in your community.

Tenants must be notified if the landlord applies for a hardship increase. The rent control board will then hold a public hearing on the landlord's request and, after the hearing, make a decision on the request. The rent control hearing gives tenants a chance to contest the rent increase sought in the application.

© 2020 Legal Services of New Jersey

If you receive notice that your landlord is applying for a hardship increase, there are several steps you can take. You should immediately contact your rent control board and ask them for (1) a copy of the ordinance, (2) a copy of the landlord's application for a hardship increase, and (3) information on when the hearing on the hardship increase will be held by the rent control board. Many ordinances also provide tenants with the right to look at all of the landlord's books and records. You may also want to seek the advice of an attorney and get any help you can from the tenants organization in your building, complex, or community.

Challenging a hardship increase

At the hearing on a request for a hardship increase, the landlord will try to show why he or she should get the increase, and you have the chance to argue against the increase. To defeat the hardship application, you must show that the landlord should not recover some of the costs being claimed.

This means that you must carefully go through the hardship application and examine each item to make sure that it is fair and reasonable. You should also make sure that the landlord is properly reporting all of his income. For example, you should challenge any cost the landlord is not entitled to recover under the ordinance, or any cost that appears inflated or false, or any cost that is unreasonable or too high, such as the cost of bank financing.

Your aim is to convince the rent control board that the landlord is not suffering hardship and that he or she should not get all or part of the requested increase. The rent board's decision can be appealed to the Superior Court, Law Division.

Illegal rents under rent control

If you find out that your rent is higher than the legal rent set by the rent control ordinance, you should contact your rent control board. You can file a complaint with the rent control board to get the rent lowered to the correct amount and to recover the amount of illegal rent you paid. Contact your regional Legal Services program, a private attorney, or your local tenants organization for help. You can also get your overpayment back by taking it out of future rent payments. *Cite*: *Chau v. Cardillo*, 250 N.J. Super. 378 (App. Div. 1990). Courts have also ruled that landlords who charge rents that are illegal under a local rent control ordinance have violated the NJ Consumer Fraud Law. This means they can be sued for three times the amount of the illegal increase, and must pay the tenant's attorney's fees as well. *Cite*: *Heyert v. Taddese*, 431 N.J. Super 388 (App. Div. 2013).

Rent increases due to condo or co-op conversions

Landlords may not be allowed to include in a hardship increase any costs that result from a planned conversion of the building to a condominium or cooperative. For example, one court has ruled that where a building had its property taxes doubled when it was converted into a cooperative, the rent control board was justified in not allowing the increase. The court also ruled that the Anti-Eviction Act requires that tenants who choose not to buy ownership in a condo or co-op be protected against conversion-related rent

© 2020 Legal Services of New Jersey

increases. *Cite*: *Litt v. Rutherford Rent Board*, 196 N.J. Super. 456 (Law Div. 1984).

Increases to retaliate or get even

The law does not allow your landlord to increase your rent in order to "get even" with you because you are using your legal rights as a tenant, or because you have reported housing and health code violations to official inspectors, or because you belong to a tenants organization. *Cite*: N.J.S.A. 2A:42-10.10. (See Chapter 10, "Defenses to Eviction.")

© 2020 Legal Services of New Jersey

Chapter 8
The Tenant's Right to Court Process

The information in this chapter is accurate as of August 2017, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

Only a court can evict a tenant

IN NEW JERSEY, the only way that a landlord can evict or remove a tenant is if a Superior Court judge orders the eviction. An order for eviction can come only after the landlord has sued the tenant for eviction in the Superior Court and won. This means that you do not have to move out simply because the landlord tells you to or threatens to remove you if you don't leave.

Illegal lockouts

A lockout or eviction is unlawful if a special court officer with a legal court order does not do it. Neither landlords nor their employees can legally evict tenants by themselves. (These kinds of evictions are sometimes called self-help evictions.) "Self-help" evictions by landlords are illegal. If you are locked out or evicted by your landlord and not by a special court officer, or if your landlord shuts off your utilities or does other things to try to make you leave, you should call the police immediately. (You should also call a private attorney or contact your regional Legal Services office.) The law says that the police must make sure you get back into your apartment. Police officers cannot evict tenants.

The law says that the police must help tenants who are being illegally evicted by their landlords.

Only a special court officer with a warrant for removal issued by a judge can actually evict a tenant. Landlords who try to evict tenants by themselves are doing something illegal, even if they have gone to court and sued the tenant for eviction. *Cite*: N.J.S.A. 2A: 39-1 and 2; N.J.S.A. 2A:18-57; N.J.S.A 2A:42-10.16; and related statutes. Some landlords still evict tenants illegally, or scare tenants into leaving by threatening to throw them out.

New Jersey Statute 2C:33-11.1 "Disorderly persons offense; forcible entry and detainer" states that:

- The police or any other public official who finds out about an illegal "self-help" eviction must

© 2020 Legal Services of New Jersey

warn the landlord or his workers to stop;

- If the police arrive after the landlord has already locked the tenant out, the police must tell the landlord to let the tenant go back in;
- If the landlord tries to keep the tenants from going back in, the landlord can be charged with a disorderly persons offense;
- Examples of an illegal eviction include: (1) The landlord uses violence or threats of violence to get the tenants out; or (2) the landlord says or does other things to try to scare the tenants into leaving; or (3) the landlord takes the tenant's property and puts it outside; or (4) the tenant lets the landlord in peacefully, and then the landlord forces the tenant out; or (5) the landlord padlocks the door or changes the locks; or (6) the landlord shuts off the electricity or gas, or has them shut off, in order to make the tenant leave; or (7) the landlord tries anything else to get the tenant out.
- The law says that the Attorney General of New Jersey must make sure that all state and local police officers, prosecutors, and public officials know about the law. Each police officer must be given a form that describes the law and the police officer's responsibility for enforcing it. Police officers must also be given special training to make sure they know what they have to do to stop illegal evictions.

The only way the landlord can evict the tenant is if a special court officer, with a legal court order called a warrant for removal, does the eviction. And even before the special court officer can do the eviction, he must give a copy of the warrant for removal to the tenant (or leave a copy on the tenant's door) at least three days before coming out to do the actual eviction. The law says that the warrant for removal must tell the tenant many things, including that self-help evictions by landlords are disorderly persons offenses. The warrant must also let the tenants know the earliest day on which the special court officer can come back to do the eviction.

The law says that if a special court officer does do a legal eviction, he or she must fill out a new form called an "execution of warrant for possession." The new form must say when the legal eviction took place, and give the name, signature, and position of the special court officer who did the eviction. The special court officer is required to immediately give a copy of this new form to both the landlord and tenant (or a member of the tenant's family), and also to post it on the door of the dwelling unit.

Holding property for rent

It is also against the law for a landlord to hold or take your clothing or furniture to force you to pay rent. This is called a distraint and it is illegal, even if you owe rent to the landlord. *Cite*: N.J.S.A. 2A:33-1. For information about citations, and how to get more information about a particular law, see "Finding the Law" in Chapter 1.

Rights of hotel and motel residents

Tourists or travelers, who stay in hotels and motels as guests, do not have to be taken

© 2020 Legal Services of New Jersey

to court to be evicted. The hotel owner or operator can lock guests out of their rooms if they don't pay their bills or if they disturb the peace. But what about people who have no other place to live and, because of the housing shortage, are forced to live in motels or hotels for months or even years at a time? Are these people residents or tenants who can only be evicted through the court process? Maybe. The issue is whether the relationship between the "hotel" or "motel" owner and the resident is that of a "landlord" and "tenant," or whether the "hotel" or "motel" is really acting as a rooming or boarding house under the law.

You may have some protections if you can show that the hotel or motel is your primary residence.

Facts that support the existence of a landlord tenant relationship may include, but not be limited to, some of the below factors:

- Whether you have lived in the hotel or motel for three months or longer;
- Whether it is your only residence and you intend to stay there for a long time or indefinitely, even if you recently moved in;
- Whether the majority of other residents are not just short term guests and consider the motel or hotel to be their primary residence;
- Whether the motel or hotel operator knew, or should have known, that you were not just a short term guest; and/or
- Whether the motel or hotel operator acted like a landlord

Courts have interpreted this issue on a case by case basis. In one case, a family that lived in a hotel for over two years because they had no other place to live was considered a tenant and could only be evicted through court order under the Anti-Eviction Act. *Cite*: *Williams v. Alexander Hamilton Hotel*, 249 N.J. Super. 481 (App. Div. 1991). In another case, a person who lived in a motel for two months was not a tenant and could be locked out of his room without court process. *Cite: Francis v. Trinidad Motel*, 261 N.J. Super. 252 (App Div. 1993). In another case, the court held that a person who lived in a hotel for three years and had no intention of moving to other accommodations was a tenant, and that the hotel was the tenant's permanent home. The tenant was entitled to the protection of the Anti-Eviction Act and had the right to sue for damages for an illegal lockout. *Cite*: *McNeil v. Estate of Lachman*, 285 N.J. Super. 212 (App. Div. 1995). For information about citations, and how to get more information about a particular law, see "Finding the Law" in Chapter 1.

If you live in a hotel or motel, it will help if you can show that the owner agreed, or should have known, that you were not just a short-term guest, or that the owner did or said things that made you believe that you were a tenant. (Some hotels or motels are actually rooming and boarding houses. Read the next section for more about this.) You may need the help of a private attorney or Legal Services if you find yourself in this situation.

© 2020 Legal Services of New Jersey

Rights of rooming and boarding house residents

Residents of licensed rooming and boarding homes are protected from self-help evictions. Owners must evict residents through the same court process as any other tenant. *Cite*: N.J.A.C. 5:27-3.3(c). Some hotels and motels are really rooming and boarding houses because people live there as their only residence for extended periods of time. The law considers a hotel or motel a rooming and boarding house if at least 15 percent of the rooms are occupied by people who have lived there for more than 90 days. This means that all of the residents (but not the guests) at the hotel or motel have the same rights as rooming and boarding house residents, including the right to be evicted only through court process. *Cite*: N.J.S.A. 55:13B-3(h). You may need the help of a private attorney or Legal Services to figure out if this law applies to you.

The causes for eviction

What constitutes "just cause" to evict a tenant?

With few exceptions, tenants in New Jersey can only be evicted for "just cause." Eviction for cause is a basic rule of landlord-tenant law in New Jersey. This means that, with just a few exceptions, tenants can be evicted only under one of the causes or grounds for eviction listed in the Anti-Eviction Act. *Cite*: N.J.S.A. 2A:18-61.1. There are 18 different causes for eviction under the Anti-Eviction Act.

No tenant can be evicted unless the landlord can establish one of these grounds. The law covers tenants in all types of rental property: single-family houses, apartment buildings or complexes, rooming and boarding houses, or mobile homes. Even people living in motels or hotels are covered in certain cases.

The few exceptions to eviction for cause. Almost all tenants are covered by the Anti-Eviction Act. However, the law does not apply to tenants residing in buildings or houses with three or fewer apartments where the owner lives in one of the apartments. This is known as the "owner-occupied" exception. Although they must still be taken to court, tenants subject to the "owner-occupied" exception may be evicted at the end of the lease term for any reason. If you are a month-to-month tenant living in a building with three or fewer apartments and your landlord lives in one of those apartments, the landlord needs only to give you a month's notice to quit before taking you to court. *Cite:* N.J.S.A. 2A:18-53.

Other exceptions involve certain situations where one of the tenants has a developmental disability, and the dwelling is owned by a trust or a member of the immediate family of the disabled tenant. The Anti-Eviction Act does not protect tenants in these situations. The aim of this provision is to enable the eviction without cause of co-tenants living with the developmentally disabled tenant.

As explained above, hotel and motel "guests" are not covered by the Anti-Eviction Act. But people who are not just "guests," but are actually living in the hotel or motel

© 2020 Legal Services of New Jersey

because they have no other home and have been there for some time, are really tenants and are covered by the Anti-Eviction Act. The Anti-Eviction Act does cover people who are living in rooming and boarding homes. Protections for rooming and boarding house residents are discussed above.

Tenants in foreclosed property. A tenant is protected under the Anti-Eviction Act even when a bank or mortgage lender files an action to foreclose on your rented property because your landlord has not paid the mortgage. This means that the foreclosing bank or mortgage lender must follow the law and can only evict you for one of the causes under the law. *Cite*: *Chase Manhattan Bank v. Josephson*, 135 N.J. 209 (1994).

What if you are not covered by eviction for cause? It is important to remember that, even if the Anti-Eviction Act does not apply to you, the landlord or property owner still must take you to court before you can be removed from your home.

Tenants covered by the Anti-Eviction Act have a very important protection. They cannot be evicted just because their leases have ended. This is because the Anti-Eviction Act says that every lease, whether oral or written, must be renewed. *Cite*: N.J.S.A. 2A:18-61.3(a). A tenant can only be evicted if the landlord can prove one of the good causes for eviction under the law. The ending or expiration of a lease is not one of these good causes. However long your lease, you do not have to move just because your lease is up. Tenants can move at the end of their leases if they want to. But landlords can only make tenants move by proving good cause in court.

A note about "notices." The next section describes the kinds of notices landlords must give in order to try to evict a tenant for one of the "good causes" in the Anti-Eviction Act.

> "Notices to cease" are notices that tell tenants if they don't stop doing something that the landlord says violates the lease or the law they will be evicted. The notice must also tell the tenant that if she or he stops the disorderly conduct, the tenant won't be evicted. *Cite: RWB Newton Assoc. v. Gunn*, 224 N.J. Super. 704 (App. Div. 1988). "Notices to cease" give tenants a second chance to avoid eviction.
>
> "Notices to quit" are notices that tell tenants that the landlord wants them to leave by a certain date, or the landlord will take them to court to try to evict them. The Anti-Eviction Act gives the minimum number of days or months of notice required for each of the legal grounds for eviction. The notice to quit must contain a clear statement of the facts (dates, times, acts complained of, etc.) and the law the landlord intends to rely on in court to evict the tenant. The notice must explicitly state the specific date by which the tenant has to vacate in the notice.

Note: If you live in public housing, or another type of subsidized housing, you may be entitled to additional notices.

© 2020 Legal Services of New Jersey

The only legal grounds for eviction (N.J.S.A. 2A:18-61.1)

The following list of grounds for eviction are described in more detail below, along with information about your rights in each instance.

- Not paying rent
- Disorderly conduct that disturbs other tenants
- Damage or destruction of the landlord's property
- Violation of landlord's rules and regulations
- Violation of lease agreement
- Violation of public housing lease agreement provision prohibiting illegal use of drugs or other illegal activities
- Not paying a rent increase
- Housing or health code violations
- Landlord wants to permanently retire building from residential use
- Not accepting changes in the lease
- Paying rent late month after month (habitual lateness)
- Conversion to condominium or cooperative
- The owner wants to live in the apartment or house
- Tenant loses a job that includes rental unit
- Conviction of a drug offense
- Conviction of assaulting, attacking, or threatening the landlord
- Engaging or being involved in drug activity, theft, or assaults or threats against a landlord
- Conviction of theft offense
- Human Trafficking

a. Not paying rent

Notices required: No notices are required, except where the tenant resides in federally subsidized housing. In public housing, a 14-day notice is required.

Comments:

- The Homelessness Prevention Program and Emergency Assistance Program may help with back rent. See Chapter 12, "Special Programs for Tenants."
- Landlords sometimes try to evict tenants for charges that are not really part of the "rent." Additional charges cannot be made part of the rent in an eviction case unless there is a written lease that contains special language. See "Late Charges" and

© 2020 Legal Services of New Jersey

"Attorney's Fees" in Chapter 4. And for tenants who live in federally subsidized housing, such as public housing, extra fees like late charges and attorney's fees can never be included as part of the rent in an eviction case. Landlords and attorneys who wrongly claim that certain charges are part of the rent can be sued under the federal Fair Debt Collection Practices Act. *Cite*: *Hodges v. Feinstein*, 189 N.J. 210 (2007).

b. Disorderly conduct that disturbs other tenants

Notices required:

- Notice to cease
- Notice to quit must be served on the tenant at least three days before filing an eviction suit.

Comments:

- Notice to cease must specifically and in detail describe the disorderly conduct and demand that the tenant stop it or face eviction. *Cite*: *A.P. Development Corp. v. Band*, 113 N.J. 485 (1988). The notice must also tell you that if you stop the disorderly conduct, then you won't be evicted. *Cite*: *RWB Newton Assoc. v. Gunn*, 224 N.J. Super. 704 (App. Div. 1988).
- Disorderly conduct must then continue after the notice to cease for the tenant to be evicted.

c. Damage or destruction of the landlord's property

Notices required:

- Notice to quit must be served on the tenant at least three days before filing the eviction suit.

Comments:

- The tenant's conduct that causes the damage must be intentional or grossly negligent. (You can't be evicted because of damage caused by a simple accident or mistake on your part.) *Cite*: *Korman Suites v. Kelsch Assoc.*, 372 NJ Super 161 (L.Div. 2004)
- Alterations made without the landlord's consent/authorization can be deemed as damage, even if the alterations are an improvement.

d. Violation of landlord's rules and regulations

Notices required:

- Notice to cease.
- Notice to quit must be served on the tenant at least one calendar month before filing the eviction suit.

© 2020 Legal Services of New Jersey

Comments:

- Notice to cease must specifically and in detail describe the violation of rules and demand that the tenant stop it or face eviction. The notice should cite the rule that the landlord feels is being violated.
- The rules and regulations must be accepted by the tenant in writing or be part of the lease at the beginning of the lease term.
- The rules and regulations must be reasonable.
- Violation of the rules and regulations must be "substantial."

e. (1) Violation of lease agreement

Notices required:

- Notice to cease.
- Notice to quit must be served on the tenant at least one calendar month before filing the eviction suit.

Comments:

- Notice to cease must describe the lease violation and demand that the tenant stop it or face eviction. The notice should also cite the number of the lease provision that the landlord feels is being violated.
- The lease must be reasonable.
- Violation of the lease must be "substantial."
- The landlord must reserve "right of reentry" in the lease. If the lease does not contain these specific words, or other words giving the landlord the right to go back into the apartment if the tenant breaches the lease, then the right of reentry has not been reserved. (Even if a landlord reserves the right of reentry, the landlord must still go to court and follow all of the other legal requirements described in this manual before he or she can file for eviction.)

e. (2) Violation of public housing lease agreement provision prohibiting illegal use of drugs or other illegal activities

Notices required:

- Notice to quit must be served on the tenant in a reasonable amount of time before filing the eviction suit. *Cites*: N.J.S.A. 2A:18-61.2 (h); 24 C.F.R. 966.4(l)(3).
- Note: No notice to cease is required.
- See "Failure to follow federal notice requirements and procedures" in Chapter 10 for additional notice requirements.

Comments:

- Federal law allows housing authorities to have a lease provision prohibiting illegal

© 2020 Legal Services of New Jersey

use of controlled dangerous substances (drugs). However, the housing authority must have amended its lease to include this provision.

- The lease provision must have been in effect at the beginning of the lease term.
- Eviction may also occur for violation of a public housing lease provision prohibiting "other illegal activities."
- The lease may prohibit illegal activity on or off the premises.
- A public housing authority may evict a tenant when a member of the tenant's household or a guest engages in drug-related activity, even if the tenant did not know about the drug-related activity. *Cite*: *Dept. of Housing and Urban Development v. Rucker*, 122 S.Ct. 1230 (2002). The Secretary of Housing and Urban Development has urged public housing authorities "to be guided by compassion and common sense" in these cases, and that "(e)viction should be the last option explored, after all others have been exhausted." The New Jersey courts have agreed with this position. The housing authority has to have a good reason for evicting innocent family members. *Cite*: *Oakwood Plaza Apts. v. Smith*, 352 N.J. Super. 467 (App. Div. 2002); *Newark Housing Authority v. Martinez-Vega*, 424 N.J. Super 24 (L. Div. 2012). If you are a tenant in this situation, you should contact an attorney.

f. Not paying a rent increase

Notices required:

- One-month notice ending tenancy and notice of the rent increase.

Comments:

- Notice requirements are explained above.
- The rent increase must not be "unconscionable" and must also comply with the local rent control law if the town has one. See Chapter 7, "Your Rights When Your Rent Is Increased."

g. Housing or health code violations where:

(1) The landlord needs to board up or tear down the building.

(2) The landlord cannot correct violations without removing the tenant.

(3) The landlord must end overcrowding or an illegal occupancy.

(4) A government agency wants to close a building as part of a redevelopment project.

Notices required:

- Notice to quit must be served on the tenant at least three months before filing the eviction suit. The notices must be in the form required by the NJ Department of Community Affairs. *Cite*: N.J.A.C. 5:11-7.2 and 7.3

© 2020 Legal Services of New Jersey

Comments:

- Housing or health code violations must be substantial, and the landlord must be financially unable to make repairs.
- In most cases, the tenant cannot be evicted until relocation assistance is provided. See "Relocation assistance" in Chapter 12, which explains the Relocation Support Program and how to apply for relocation assistance.
- The state must report to the court whether repairs can be made with tenants present for reason g.(2) above. *Cite*: N.J.A.C. 5:11-7.4

h. Landlord wants to permanently retire building from residential use

Notices required:

- Notice to quit—must be served on the tenant at least 18 months before filing the eviction suit.

Comments:

- The notice must say in detail what the landlord plans to do with the building. If the landlord's notice fails to clearly state what the future use of the property will be, the notice is defective and the court cannot evict the tenant. *Cite*: N.J.S.A. 2A:18-61.1(b); *Sacks Realty v. Batch*, 235 N.J. Super. 269, aff'd. 248 N.J. Super. 424 (App. Div. 1991).
- The landlord must send a copy of the notice to quit to the Department of Community Affairs and to the rent control office.
- The tenant cannot be evicted unless the landlord has all necessary approvals to convert the building to non-residential use.
- This ground cannot be used for eviction in order to avoid relocation assistance that is available in the case of housing and health code violations. See g. above.
- The landlord is liable for damages if the tenant is evicted for this reason and the landlord then re-rents to another tenant.

i. Not accepting changes in the lease

Notices required:

- Landlord must give a tenant a month's notice telling the tenant that the old lease is being terminated and that the tenant is being offered a new lease containing changed terms, which must be described in the notice. If the tenant does not accept the new terms within the 30-day period, then the landlord must serve the tenant with another notice (a notice to quit) at least one month before filing the eviction suit. *Cite*: *Prospect Point Gardens Inc. v. Timoshenko*, 293 N.J. Super 459 (L.Div. 1996).

© 2020 Legal Services of New Jersey

Comments:

- Changes in the lease must be "reasonable." In determining whether the changes are reasonable, a court must take into account the tenant's circumstances as well as the landlord's. *Cite*: *447 Assoc. v. Miranda*, 115 N.J. 522 (1989)
- The lease can only be changed at the end of the lease.
- You can also avoid eviction in cases where you refused to sign a lease or accept a lease change that you thought was unreasonable, even after you lose your case. As long as you agree to accept the new lease or lease change after the hearing is over, and pay any rent due, the landlord must allow you to stay. *Cite*: *Village Bridge Apartments v. Mammucari*, 239 N.J. Super. 235 (App. Div. 1990).

j. Paying rent late month after month (habitual lateness)

Notices required:

- Notice to cease.
- Notice to quit must be served on the tenant at least one month before filing the eviction suit.

Comments:

- The notice to cease must demand that the tenant stop paying rent late.
- The tenant must continue to pay rent late at least two more times after receiving the notice to cease. *Cite*: *534 Hawthorne Avenue Corp. v. Barnes*, 204 N.J. Super. 144 (App. Div. 1985); T*ower Management Corp. v. Podesta*, 226 N.J. Super. 300 (App. Div. 1988). Even two late payments after the notice to cease may not be enough, depending upon the facts involved in a particular case. *Cite*: *Carter v. Richardson*, 417 N.J. Super 60 (App. Div. 2010).
- If the tenant pays rent late after receiving the notice to cease, the landlord must keep providing the tenant with notices that paying rent late violates the lease. If the landlord does not give this notice every time the landlord accepts a late payment, the landlord can lose the right to evict the tenant. *Cite*: *Ivy Hill Park v. Abutidze*, 371 N.J. Super. 103 (App. Div. 2004).
- In some cases, even if a tenant has been habitually late, the particular facts of the case may be enough for a court to do something other than evict the tenant. *Cite*: *279 4th Ave. Mgt., L.L.C. v. Mollett*, 386 N.J. Super 31 (App. Div.) certify. Denied 185 N.J. 354 (2006).

k. Conversion to condominium or cooperative

Notices required:

- Notice to quit must be served on the tenant at least three years before filing the eviction suit.

© 2020 Legal Services of New Jersey

Comments:

- The tenant must be served with notice of intent to convert, the plan for conversion, and a notice of the right to rent comparable housing in addition to the notice to quit.

l. The owner wants to live in the apartment or house

Notices required:

- Notice to quit must be served on the tenant at least two months before filing the eviction suit. If there is a written lease, the eviction suit cannot be filed until after the lease expires.

Comments:

- Only applies where (1) the landlord is converting the apartment into a condominium and wants to sell it to a buyer who will move in; (2) the owner of three or fewer condominium or cooperative units wants to move in, or is selling the unit to a buyer who wants to move in; or (3) the owner of a house or building with three or fewer apartments wants to move in or is selling the house or building to a buyer who wants to move into the tenant's unit.
- If the landlord is selling to a buyer who wants to move in, there must be a contract for sale and the contract must state that the house or apartment will be vacant at the time of closing.
- The buyer or owner must intend to live in the house or apartment and not convert it to commercial use. *Cite*: *Aquino Colonial Funeral Home v. Pittari*, 245 N.J. Super. 585 (App. Div. 1991).
- The owner must be an actual "person" who intends to live in the house, not a corporation or a company. *Cite*: *3519-3513 Realty, L.L.C. v Law*, 406 N.J. Super 423 (App. Div. 2009).

m. Tenant loses a job that includes rental unit

Notices required:

- Notice to quit must be served on the tenant at least three days before filing eviction suit.

Comments:

- Applies where the tenant works for the landlord as a janitor, superintendent, or in some other way; the tenant gets to live in the apartment as part of the job; and the landlord ends the tenant's job.
- If the tenants were living in the apartment before they were hired by the landlord, this part of the law cannot be used to evict them. *Cite*: *Kearny Court Assoc. v. Spence*, 262 N.J. Super 241 (App. Div. 1993).

© 2020 Legal Services of New Jersey

n. Conviction of a drug offense

Notices required:

- Notice to quit must be served on the tenant at least three days before filing the eviction suit.

Comments:

- The drug offense must have taken place in the apartment building or on the grounds of the apartment complex.
- The tenant must be convicted of a drug offense. ("Conviction" means pleading guilty or being found guilty in court.) This also applies if the tenant is a juvenile and has been found delinquent for a drug offense.
- This will not apply if the person convicted has completed or been admitted to a drug rehabilitation program.
- This also applies if the tenant (1) lets a family member or anyone else who has been convicted of a drug offense in the building or complex live in the tenant's apartment, or (2) has in the past allowed that person to live in the apartment. This section does not apply to permitting a juvenile to occupy the premises where the juvenile has been found delinquent for the offense of use or possession.
- The tenant being evicted for letting a drug offender live in the apartment must know that the person has been convicted. If not, the tenant cannot be evicted. *Cite*: *Housing Authority of the City of Hoboken v. Alicea*, 297 N.J. Super. 310 (App. Div. 1997); *Housing Authority of the City of Jersey City v. Thomas*, 318 N.J. Super. 191 (App. Div. 1999). However, if the tenant lives in subsidized housing—even if it is privately owned—the landlord may be able to evict the tenant even if the tenant did not know. But the landlord must have a good reason for evicting an innocent tenant in this situation. *Cite*: *Oakwood Plaza Apts. v. Smith*, 352 N.J. Super. 467 (2002).
- No eviction suit may be brought more than two years after the date of the conviction, or more than two years after the person's release from jail, whichever is later.
- Specific rules apply when the landlord is a public housing authority. See e.(2).

o. Conviction of assaulting, attacking, or threatening the landlord

Notices required:

- Notice to quit must be served on the tenant at least three days before filing the eviction suit.

Comments:

- The tenant must be convicted of assaulting or threatening harm to the landlord, a member of the landlord's family, or the landlord's employees. ("Conviction" means pleading guilty or being found guilty in court.) This also applies if the

© 2020 Legal Services of New Jersey

tenant is a juvenile who has been found delinquent for such acts.

- This also applies if the tenant (1) lets a family member or anyone else who has been convicted of such assaults or threats live in the tenant's apartment, or (2) has in the past allowed that person to live in the apartment.
- The tenant who is being evicted for letting a person convicted of such assaults or threats live in the apartment must know of the conviction. *Cite*: *Housing Authority of the City of Hoboken v. Alicea*, 297 N.J. Super. 310 (App. Div. 1997); *Housing Authority of the City of Jersey City v. Thomas*, 318 N.J. Super. 191 (App. Div. 1999).
- No eviction suit may be brought more than two years after the date of the conviction, or more than two years after the person's release from jail, whichever is later.

p. Engaging or being involved in drug activity, theft, or assaults or threats against a landlord

Notices required:

- Notice to quit must be served on the tenant at least three days before filing the eviction suit.

Comments:

- Under this section, unlike sections n., o., and q., the landlord does not have to show a conviction—only that the activity violates criminal law. But the landlord still has to prove that the tenant actually committed acts that violate criminal law.
- The drug activity must have occurred in the apartment building or apartment complex. However, this section will not apply if the person who has been engaging in drug-related activity completes or is admitted to a drug rehabilitation program.
- The assault or terroristic threats must have involved the landlord, a member of the landlord's family, or an employee of the landlord.
- Theft means theft of property on the leased premises—from the landlord, the leased premises, or from other tenants residing in the leased premises.
- This section also applies if the tenant (1) lets a family member or anyone else who has engaged in these activities live in the tenant's apartment, or (2) has in the past allowed that person to live in the apartment. However, this section will not apply if the person who has been engaging in drug-related activity is a juvenile who has been found delinquent for the offense of use or possession.
- The tenant being evicted for letting an offender live in the apartment must know that the person has been engaging in drug-related activity. If not, the tenant cannot be evicted. *Cite*: H*ousing Authority of the City of Hoboken v. Alicea*, 297 N.J. Super. 310 (App. Div. 1997); H*ousing Authority of the City of Jersey City v. Thomas*, 318 N.J. Super. 191 (App. Div. 1999). However, if the tenant lives in subsidized housing—even if it is privately owned—the landlord may be able to evict the tenant even if the tenant did not know. But the landlord must have a good

© 2020 Legal Services of New Jersey

reason for evicting an innocent tenant in this situation. *Cite*: *Oakwood Plaza Apts. v. Smith*, 352 N.J. Super. 467 (2002).

- Specific rules apply when the landlord is a public housing authority. See also e.(2).

q. Conviction of theft offense

Notices required:

- The notice to quit must be served on the tenant at least three days before filing the eviction suit.

Comments:

- The tenant must have been convicted of theft of property from the landlord, from the leased premises, or from other tenants residing in the same building or complex. ("Conviction" means pleading guilty or being found guilty in court.) This section applies if the tenant is a juvenile who has been found delinquent for such acts.
- This section also applies if the tenant lets a family member or anyone else who has been convicted of theft occupy the premises.
- The tenant who is being evicted for letting an offender live in the apartment must know that that person has been convicted. If not, then the tenant cannot be evicted. *Cite*: *Housing Authority of the City of Hoboken v. Alicea*, 297 N.J. Super. 310 (App. Div. 1997); H*ousing Authority of the City of Jersey City v. Thomas*, 318 N.J. Super. 191 (App. Div. 1999).

r. Human trafficking

Notices required:

- The notice to quit must be served on the tenant at least three days before filing the eviction suit.

Comments:

- Under this section, unlike sections n., o., and q., the landlord does not have to show a conviction—only that the activity violates the human trafficking criminal law. But the landlord still has to prove that the tenant actually committed acts that violate criminal law.
- This section also applies if the tenant (1) lets a family member or anyone else who has engaged in these activities live in the tenant's apartment, or (2) has in the past allowed that person to live in the apartment.
- No eviction suit may be brought more than two years after the date of the conviction, or more than two years after the person's release from jail, whichever is later.

Note: If you live in public housing, or another type of subsidized housing, you may be entitled to additional notices.

© 2020 Legal Services of New Jersey

Chapter 9
The Legal Eviction Process

The information in this chapter is accurate as of August 2017, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

THIS CHAPTER EXPLAINS the notices required before an eviction complaint is filed, the process of filing and serving the eviction complaint, and what you can expect at the court hearing in an eviction case.

Notices required before an eviction suit

Except for most nonpayment of rent cases, New Jersey law requires a landlord to serve a notice to quit and, in some cases, a notice to cease, before filing an eviction complaint. See below for the causes for eviction and the notices that are required for each cause. See also Failure to follow federal notice requirements and procedures in Defenses to Eviction. If you live in project-based federally subsidized housing or public housing, HUD regulations and state case law require the landlord to send you a notice terminating your tenancy before filing any eviction action, including one based upon nonpayment of rent.

Notice to cease

A notice to cease is a notice or letter telling you to stop certain conduct that is not allowed under your lease or under the Anti-Eviction Act. The notice must outline specifically the wrongful conduct. *Cite*: *Carteret Properties v. Variety Donuts*, 49 N.J. 116 (1967). The notice must also tell you that if you stop the wrong conduct, you won't be evicted. If you stop the conduct that is described in the notice, then the landlord cannot evict you. *Cite*: *A.P. Development Corp. v. Band*, 113 N.J. 485 (1988) and *RWB Newton Assoc. v. Gunn*, 224 N.J. Super. 704 (App. Div. 1988). A notice to cease is only necessary if you are charged with being disorderly, breaking the rules and regulations in the lease, breach of lease, or habitually paying the rent late.

Notice to quit and demand for possession

A notice to quit is a notice or letter from the landlord that terminates your tenancy and tells you to move out by a certain date because you have engaged in certain conduct that is not allowed under your lease or under the Anti-Eviction Act. For those eviction causes that also require a notice to cease, the notice to quit also will tell you that since you have ignored the notice to cease, you must move out by a certain date. The notice must tell you specifically what it is that you have done wrong. For causes that do not require the landlord to give you a notice to cease, this is the first and only notice you will get before the

© 2020 Legal Services of New Jersey

landlord can file an eviction suit.

Service of the notice to quit

A notice to quit must either be:

- Given to you directly;
- Left at your house, apartment, or mobile home with someone who is at least 14 years old; or
- Sent by certified mail

The notice can be sent by regular and certified mail at the same time. If you don't pick up the certified mail and the regular mail isn't returned to the landlord, then the court will presume that you have been served. *Cite*: N.J.S.A. 2A:18-61.2.

The court complaint

How does a landlord start an eviction suit? The landlord must prepare a complaint for your eviction. The complaint outlines the reasons for the eviction.

The summons

The summons is a paper from the court that tells you when and where the court will hear your case. The summons is attached to the complaint, and together these papers are given to you by the court. The summons and complaint can be mailed to you by the court, delivered to you by an officer of the court, left at your home with a child over the age of 14, or posted on your door.

Information about tenants' rights

The Supreme Court has adopted a set of instructions that a judge will read to the audience in court. These instructions, referred to as "Calendar Instructions," explain court procedures and let tenants know about some of their rights. A written set of these instructions must be served with the summons and complaint. *Cite*: *Community Realty Management v. Harris*, 155 N.J. 212 (1998).

Time from complaint to court date

The summons and complaint will tell you when to appear in court. The court rules require that you be served a copy of the complaint at least 10 days prior to the court date. The court serves you by sending a copy of the complaint by regular mail, and having a court officer post the summons and complaint on your door.

Right to an interpreter

The New Jersey Judiciary provides court interpreting services. During a court proceeding, the court interpreter will help you to communicate with persons in the courtroom, including your lawyer, court staff, and the judge. If you need an interpreter, notify the court as soon as possible. When the court has scheduled a matter requiring an interpreter,

© 2020 Legal Services of New Jersey

parties are required to notify the court if the matter settles or is otherwise to be postponed so that the court does not incur unnecessary interpreter fees. A party who fails to notify the court may be assessed the cost of the interpreter. For more information about how to request an interpreter, including contact numbers, visit the New Jersey Courts website at ***bit.ly/37Fk2af***.

Postponing your court hearing

You should call the Clerk of the Superior Court, Special Civil Part, or the judge's office, if, for some reason, you can't make it to court on the day of your case. You should explain why you need a new court date and ask for a postponement (also called an adjournment). You should also call the landlord or the landlord's attorney and ask the landlord to agree to postpone the hearing. You should try to ask for an adjournment at least five days before the court date. Notify the landlord that you are asking for an adjournment. If you do not ask five days in advance, the request may not be allowed unless you can show exceptional circumstances. Last-minute requests for postponements are usually not allowed.

If an emergency such as illness or a car breakdown prevents you from going to court, you should call the court and ask for a postponement, even if it is the morning of the court hearing.

Important note: In some counties, postponements are rarely given. In those counties, the landlord has to agree and there has to be a very good reason to get your hearing postponed.

Going to court

The date, time, and place of the court hearing in your case are listed on the summons. You must appear in court at the right date and time in order to be heard in your matter. It is best to plan to be at the courthouse 15 to 30 minutes before your hearing. If you are driving, it may be difficult to find a parking spot. You will have to go through security when entering the courthouse, and there could be a line. It is very important that you are inside the hearing room when the judge calls out the names of the landlord and tenant in each case.

Landlord tenant cases are heard in the Superior Court, Special Civil Part.

If you do not appear in court on the day of the trial, the clerk of the court will enter a default judgment for possession against you. This means that the landlord can evict you once the landlord takes certain steps. The landlord has to file an affidavit that meets the following conditions:

- The affidavit must state why you are being evicted and set forth the "good cause" required by the statute.

© 2020 Legal Services of New Jersey

- The affidavit must state that all extra fees (such as late fees and attorney's fees) that are included in the complaint for nonpayment of rent are permitted to be charged as rent by the lease and by federal, state, and local law. Note: If an attorney represents the landlord, the attorney must sign the affidavit.
- If the eviction requires service of notices such as a notice to quit or a notice to cease, the landlord's affidavit must have all of the notices attached. The affidavit must state that the landlord served the tenant with these notices and that the facts in the notices are true.

The warrant of removal process is further discussed in Chapter 11, "What Happens After the Eviction Hearing?"

The clerk of the court cannot enter a default judgment against a tenant who is a minor or mentally incapacitated. A court can enter a default judgment against a mentally incapacitated person, but only after it gives the tenant's guardian five days' written notice.

If the landlord does not answer, the case should be dismissed. You should stay in court, however, until you are given permission to leave by the judge or another court official.

The calendar call and instructions

The Supreme Court has adopted instructions that must be read at the start of each session of landlord-tenant court. These instructions are extremely important because they will help you to understand court procedures and some tenants' rights.).

Important topics covered by the instructions include:

- The calendar call
- Settlements
- Waiting for trial—what happens if your case has to be adjourned to another day
- Nonpayment cases (getting your case dismissed if you pay your rent by a certain time)
- Eviction procedures (the warrant for removal)
- Stopping an eviction after a judgment for possession

The instructions must be read in person by the judge. The instructions also must be given in Spanish, but this may be done by videotape.

A copy of the instructions must be served with the court complaint.

A copy of the instructions must also be available in written form in court. The written instructions will also be available in Spanish. If you cannot find the written instructions, ask the clerk of the court.

There must be a second reading of the instructions for latecomers. This may be done by videotape.

© 2020 Legal Services of New Jersey

Settling your case with the landlord

You can always settle your case with your landlord, even after you receive a summons and complaint, and until the judge actually begins a hearing in your case. If you reach an agreement to settle your case, get the agreement in writing and be sure that you and your landlord fully understand the terms of the agreement. You should only make an agreement with your landlord if the agreement is both fair and realistic. An agreement that you cannot keep will only lead to your eviction at a later time.

Be careful if you settle your case before the court hearing. If you reach an agreement before the court date, be sure that the landlord agrees to dismiss the complaint and/or officially ends the case against you. This requires the landlord to notify the court clerk. You should also check with the court clerk yourself to ensure that the complaint has been dismissed.

If you reach an agreement before the court date, be sure that the landlord agrees to dismiss the complaint and/or officially ends the case against you.

In settling a case, try to get the landlord to agree to terms that will help you. For example, try to get the landlord to agree to make repairs in your apartment and list those repairs in writing in the settlement agreement.

What should you do if you reach an agreement with the landlord on the day you have to go to court? To dismiss the complaint on the court day, the landlord has to tell the judge directly. This means that you should wait until the landlord tells the judge that the case has been settled—no matter when you settle. It is important that that the court be notified by the landlord.

There have been situations where a landlord tells the tenant that the case is settled and that the court case will be dropped. The tenant then does not show up in court. The landlord then will go before the judge and get an eviction order for the absent tenant. Remember: Always go to court on the date listed on the summons.

Some settlements are "consent judgments" where the tenant remains in the property so long as the tenant upholds the agreement. The form used is APPENDIX XI-V C CONSENT TO ENTER JUDGMENT (TENANT REMAINS) (***njcourts.gov/forms/10514_appndx_xi_v.pdf***). A "consent judgment" means that the parties agree that a judgment will enter. If you fail to live up to the agreement, the landlord must file a certification in order to proceed with a warrant for removal. The certification must state exactly why the landlord claims you violated the agreement and list the facts to support this position. The certification must be sent to you in the mail or posted on your door.

Some settlements are consent judgements where the tenant agrees to move. The form used is CONSENT TO ENTER JUDGMENT FOR POSSESSION (TENANT VACATES) (***njcourts.gov/forms/10515_appndx_xi_w.pdf***). Even if you agree to move by a

© 2020 Legal Services of New Jersey

certain date, the landlord still has to go through the warrant of removal process to evict you. If you agree to pay money and also move, and you are not represented by an attorney, you will have to go before the judge and the judge would have to approve the agreement. For more information on settlements, see above.

Mediation

In most courts, mediation is offered in eviction cases. This means that, before a judge will hear an eviction case, you and your landlord must first meet with a law clerk, other court workers, and even other attorneys, to see if the case can be settled. These people are called mediators. A mediator is not supposed to take sides. The mediator's job is to help you and your landlord find a way to reach an agreement without having to go to trial.

In mediation, for example, if you don't have all of the rent you owe, you may be able to get your landlord to agree to allow you to pay part of the back rent each month until the whole amount is paid. If the landlord agrees to this, the mediator will usually write down the agreement and give each of you a copy.

A mediator should not offer you any confusing legal advice, especially if you don't have a lawyer or if you are not sure of your legal rights. A mediator is not a judge. If a mediator pressures you, ask to end the mediation.

You are not required to reach an agreement in mediation. You do not have to accept the mediator's suggestions. You always have the right to go before the judge and have the judge decide your case.

Be prepared to defend your case in court

The only issues before the judge are whether or not the landlord has grounds for eviction, and whether you have any defenses. If the landlord wins, the landlord has the right to remove you from the premises. If you move and the landlord alleges that you owe money, the landlord would have to file a different type of complaint to try to collect the money from you.

The judge will hold hearings in individual cases after he or she calls the list of all of the cases. This means that when you go to court for your hearing, you must be ready to show the judge why you should not be evicted. You must be ready to defend yourself against the cause or causes for eviction that are listed by your landlord in the complaint. The common defenses to eviction are explained in more detail in Chapter 10.

These defenses could include, for example, showing that the landlord has not sent you the proper notice to cease or notice to quit, or showing that the conduct that the landlord is complaining about did not happen.

Whatever defenses you use, you must be prepared to present proof (evidence) to back up your defense. This evidence can include written documents, photographs, the testimony of witnesses, and your own testimony. You must take with you to court any and all

© 2020 Legal Services of New Jersey

Whatever defenses you use, you must be prepared to present proof (evidence) to back up your defense.

evidence you think you need for your defense. Examples of the types of evidence that may be used include the following:

- Photos of your apartment
- Receipts for rent or repairs and canceled checks
- Inspection reports (the court may require the inspector to come to court and may not consider reports without the inspector being there)
- A copy of your lease and letters to the landlord

Be prepared to explain your defenses to the judge. Remember the judge is there to listen to both sides and make a decision.

Any witnesses whom you call to testify on your behalf must be present in court on the day of the hearing. The court will not accept a letter from your witness. You will also testify on your own behalf, so it is important for you to practice your testimony—what you are going to say to the judge—before you go to court.

The hearing

A hearing is the time when the judge listens to witnesses and reads documents about your case. The judge hears from the landlord and the landlord's witnesses first. At this point, the landlord may introduce or give the judge written letters or documents to prove his case. You have the right to examine these documents. After the landlord and his or her witnesses have testified to the judge, you can ask them questions about what they have said. You should not be afraid to ask any questions you have. You do not tell your side of the story at this time. You only ask questions. Your landlord or his or her witnesses may not be able to answer your questions or may say something that will help your case.

The judge will hear from you and your witnesses next. This is when you will get a chance to tell the judge your story and explain why the landlord should not be able to evict you. It is also your time to give the judge any letters, reports, photographs, or receipts that support your side of the argument. The landlord or his or her lawyer can question you. You can then present any other witnesses or evidence you think is important to your defense. For example, if your defense is that your apartment is uninhabitable because of the conditions, you should request that the housing inspector who inspected your apartment appear as a witness, and that he or she bring the inspection records. Note: If the inspector will not appear voluntarily, you will have to subpoena the head of the inspection department. Ask the clerk of the court or a Legal Services office for a subpoena form and instructions on how to issue it. You will need to personally serve (hand deliver) the subpoena to the party that you want to serve as a witness in court at least five days before the trial/hearing date.

© 2020 Legal Services of New Jersey

The judge's decision

The judge makes a decision after hearing all of the evidence from you and your landlord. The judge usually announces the decision immediately after hearing the evidence. If you win, the judge will dismiss the complaint. This means that you are not evicted and you can remain in your rental unit.

If you lose, the judge enters a judgment for possession in favor of the landlord. A judgment for possession is an order for your eviction. It gives the landlord the legal right to have you removed from your apartment or house.

The next step in the eviction process is the act of removing you from your rental unit. This does not happen right away and takes some time to complete. You also have some rights even after the judge gives the eviction order.

For more information, see Chapter 11, "What Happens After the Eviction?"

The judge makes a decision after hearing all of the evidence from you and your landlord.

© 2020 Legal Services of New Jersey

Chapter 10
Defenses to Eviction

The information in this chapter is accurate as of March 2017, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

A TENANT CAN BE EVICTED only if the landlord follows each of the steps in the eviction process and if a judge is convinced that there is cause for eviction under the Anti-Eviction Act. A tenant can defeat an eviction complaint by showing that the steps in the eviction process were not correctly followed, or that cause for eviction does not exist, or that the landlord has not met other duties under the law, particularly the duty to provide the tenant with safe and decent housing. This section explains the most common defenses used by tenants to defeat an eviction in court.

Tenants who have to defend themselves in an eviction case without a lawyer should read this section carefully. Acting as your own lawyer is called appearing *pro se*. Landlord tenant law can be very complicated, so you should make every effort to get a lawyer. A law passed in 2013 made it easier to do that. Before this law, a court could only order a landlord to pay a tenant's attorney's fees in a very small number of cases, such as cases where a tenant sues a landlord to get back a security deposit and wins. This made it difficult for a tenant to find a private attorney willing to represent him or her. Now, tenants have the right to have the court order the landlord to pay the tenant's attorney's fees in other kind of cases too, including evictions. As a result, it may be easier to find an attorney who is willing to represent you because, if you have a good case and win, the landlord will have to pay your attorney too. The law says that tenants automatically have this right if the lease

- started or was renewed after February 1, 2014, and
- says that the landlord has the right to collect attorney's fees if the landlord wins.

In other words, it gives a tenant exactly the same right to collect these fees as the landlord gave to itself in the lease. *Cite*: N.J.S.A. 2A:18-61.66 et seq.

If you have to appear *pro se*, go through each of the defenses explained below and use the defenses that fit the facts of your case.

Unauthorized practice of law

The judge cannot hear an eviction case if your landlord is a corporation unless the corporation is represented in court by a lawyer. The letters "Inc." after the landlord's name mean that it is a corporation. The corporate landlord's case must be dismissed if someone who is not a lawyer prepared the complaint and summons. Unfortunately, some courts

© 2020 Legal Services of New Jersey

may bend the court rules and allow property managers, stockholders, and others who are not lawyers to act for the corporate landlord. This is improper under New Jersey law (except that a partner in a general partnership may file papers and appear *pro se*). *Cite*: *Rule* 6:10 and *Rule* 1:21-1(c).

If you have to appear *pro se*, go through each of the defenses explained below and use the defenses that fit the facts of your case.

The Landlord Registration Act

The law requires landlords who rent houses, apartments, or buildings to register certain information with the clerk of the city or town where the building is located. If your building contains three or more apartments, the landlord also must register with the New Jersey Department of Community Affairs in Trenton. The law requires that the landlord list his or her name and address and the telephone number of someone—such as the superintendent, janitor, or other person—who can be reached at any time and who is responsible for ordering emergency repairs and receiving complaints from tenants. The law also requires the landlord to provide a lot of other information as well. The landlord must display this information at the property in a place where tenants can see it, and the landlord must give this information in writing to each tenant. *Cite*: N.J.S.A. 46:8-28 and 29.

Failure to register

The registration law prevents a landlord from evicting you if the building is not properly registered. You can call the city or town clerk to find out if the property is registered. Call town hall and ask for the clerk. Ask the clerk to check the Landlord Registration file to see if your landlord is registered. If your landlord has not registered the property or has not given you a copy of the registration, the court cannot enter a judgment to evict you in favor of the landlord. In most eviction cases where a landlord has not registered, the judge will postpone hearing the case to give the landlord time to register. Once the landlord registers, the court can then hear the case and enter a judgment for eviction. The postponement can give you extra time to move or to obtain the rent you may owe. Some judges do not follow this procedure and will enter a judgment anyway, if the landlord agrees to register the property later. This practice is clearly wrong. *Cite*: N.J.S.A. 46:8-33 and *Iuso v. Capehart*, 140 N.J. Super. 209 (App. Div. 1976).

If your landlord is not registered, you can file a complaint in Superior Court or municipal court. A landlord can be fined up to $500 for failing to register. *Cite*: N.J.S.A. 46:8-35.

Improper notice or no notice

You can get an eviction complaint dismissed if the landlord did not give you a proper notice to cease and/or a proper notice to quit before taking you to court. This is a very

© 2020 Legal Services of New Jersey

important and common defense. As explained in Chapter 8, these notices must specifically and in detail describe the conduct that is causing eviction and give you the correct amount of time before going to court. Notices must be very specific so that tenants know exactly what is expected of them and how to prepare for trial. Landlords must "strictly comply" with notice requirements and, if they do not, you should argue that the eviction action should be dismissed. See "Notices required before an eviction suit," in Chapter 9. Remember that the landlord does not have to give you any notice to evict you for nonpayment of rent. *Cite*: N.J.S.A. 2A:18-61.2. If you live in public or subsidized housing, you may be entitled to additional notices. See the next section for more information about this.

Carefully read the notice to cease and the notice to quit before you go to court. If you only received a notice to quit, find out if the Anti-Eviction Act requires the landlord to first serve you with a notice to cease.

Here are some common examples of improper notices. If you think the notice that you receive from your landlord is improper in these or other ways, or even if you are not sure, tell the judge, give him or her the notice to review, and ask that the eviction complaint be dismissed because you received improper notice.

- You receive a notice to quit telling you that you have to move for playing loud music at night. You did not receive a notice to cease first. The notice is improper because you must receive both notices in their correct order. Some landlords try to send both the notice to cease and the notice to quit at the same time. This is improper. You must first receive the notice to cease, and then be given time to stop doing what the landlord says you are doing that violates the lease or rules. If you stop, you cannot be given a notice to quit, and you cannot be evicted.
- You receive a notice to cease that tells you to stop playing loud music at night. The landlord then sends a notice to quit that tells you to move because you have too many visitors. The notice is improper because the notice to quit must relate to the same type of conduct complained about in the notice to cease.
- On March 31, your landlord sends you a notice to quit stating that you must leave your apartment in one month, or by April 30, because she claims that you have not obeyed her notice to cease, which told you to stop violating the rules in your lease. The landlord does not wait until April 30 to start the eviction case. Instead, she files an eviction complaint on April 20, and you are served with the summons and complaint saying that you must appear in court on May 3. This notice is improper because you did not get the full one-month notice to quit. The landlord cannot start the eviction case until the time stated in the notice to quit has run out.
- You receive a notice to quit that tells you to move because you broke one of the rules in the lease. The notice does not describe the specific rule that you broke and specifically what you did to break the rule. This notice is improper because the notice must tell you exactly what rules were broken and how you broke them (dates, times, description). *Cite*: *A.P. Development Corp. v. Band*, 113 N.J. 485 (1988).

© 2020 Legal Services of New Jersey

Failure to follow federal notice requirements and procedures

Tenants who live in public housing or in other subsidized buildings may be entitled to certain notice and procedural rights over and above what is required by state law. For example, under federal law, you may be entitled to a notice from the landlord if you are being evicted for non-payment of rent, even though state law does not require the landlord to give such notice. See the next two sections for more information about this. For state law notices, see "The Only Legal Grounds for Eviction" (N.J.S.A. 2A:18-61.1).

If you are being evicted from public housing or other subsidized buildings, or you are being denied Section 8 assistance, or you are being terminated from Section 8, you should check with a Legal Services attorney to make sure that you have received the proper notice.

Public housing notice requirements

If you live in public housing, you are entitled to the following notices before the housing authority terminates your lease.

- The housing authority must give you a 14-day notice before it terminates a lease for nonpayment of rent. Cite: 24 C.F.R. § 966.4(l)(3)(i)(A).
- In three other types of cases, the housing authority must give you a reasonable notice of up to 30 days, depending on how serious the situation is. These are cases where a housing authority seeks to end a lease for criminal activity, threats, or having a felony conviction. In any other case, a housing authority must give you 30 days' notice before it can try to evict you in court, unless state law allows for a shorter notice. Cite: 24 C.F.R. § 966.4(l)(3)(i)(B)(C).
- The notice of lease termination must:
    - state the reasons for eviction,
    - inform you of your right to reply, and
    - inform you of your right to examine housing authority documents related to the termination or eviction before trial.

When the housing authority is required to give you the opportunity for a grievance hearing, the notice must also inform you of your right to request formal or informal hearings with the housing authority. Cite: 24 C.F.R. § 966.4 (l)(3)(ii).

- You may not always have a right to a grievance hearing before the housing authority, such as in cases involving criminal activity. In those cases, the notice of lease termination must also state:
    - that you are not entitled to a grievance hearing,
    - that the housing authority must go to court to try to evict you,

© 2020 Legal Services of New Jersey

- that the government (HUD) has approved this court procedure,
- the reasons for the eviction, and
- that you have the right to examine documents related to the termination or eviction before trial. Cite: 24 C.F.R. § 966.4(l)(3)(v); 24 C.F.R. § 966.4(m).

It is important that you contact a Legal Services attorney to make sure that your rights are protected and that you have received the proper notice.

Subsidized housing notice requirements

If your building receives a subsidy, but you have a private landlord (not a housing authority, and not a Section 8 voucher), you may have the following rights.

- Tenants who live in most subsidized buildings are entitled to a notice that:
  - specifies the date the tenancy will be terminated;
  - states in detail the reasons for termination;
  - advises the tenant that he or she has 10 days to discuss the proposed termination with the landlord; and
  - advises the tenant that if the tenant does not leave, the landlord may file suit to evict, at which time the tenant may present a defense. Cite: HUD Handbook 4350.3 REV-1, Section 8-13, B2, p. 8-14; Family Model Lease, Section 23e, Appendix 4-A, p. 12.
- In certain cases, tenants may be entitled to a 30-day notice of termination of tenancy. *Cite*: HUD Handbook 4350.3 REV-1, Section 8-16, B2, 3, p. 8-20; Family Model Lease, Section 23e, Appendix 4-A, p. 12. In other cases, the notice of termination is the time period required by state law.

The above rights to notice should be written in your lease. Unless the housing authority or other subsidized landlord gives you the proper notice, you cannot be evicted, and the case must be dismissed. *Cite*: *Housing Authority of Newark v. Raindrop*, 287 N.J. Super. 222 (App. Div. 1996); *Riverview Towers Associates v. Jones*, 358 N.J. Super. 85 (App. Div. 2003).

If you are not sure what type of housing you live in, you may check the Guide to Affordable Housing in New Jersey (***www.state.nj.us/dca/divisions/codes/publications/guide.html***).

Section 8 voucher notice requirements

If you are a Section 8 voucher holder, you are entitled to the notices that you would receive under state law. For state law notices, see "The Only Legal Grounds for Eviction," in Chapter 8. You are not entitled to any notices over and above what you would receive under state law.

© 2020 Legal Services of New Jersey

If you are a Section 8 voucher holder, and you receive an eviction notice from your landlord, you must promptly give the public housing authority a copy of the eviction notice. *Cite*: 24 C.F.R. § 982.551(g). Your landlord must give the public housing authority a copy of any eviction notice that the landlord gives you. *Cite*: 24 C.F.R. § 982.310(e)(2)(ii).

Improper eviction complaint

An eviction suit can be dismissed by the judge if the eviction complaint was not prepared in the correct way. This happens often, so you should read the complaint you received to make sure it is correct. Here are some examples of an improper eviction complaint.

- The complaint does not say why the landlord wants you out or does not describe the cause for eviction under the Anti-Eviction Act.
- In a nonpayment of rent eviction, the complaint must include only the amount of rent legally due. The landlord cannot add charges that are not legally part of the "rent." See "Late Charges" and "Attorney's Fees" in Chapter 4, and "The Only Legal Grounds for Eviction" (part a), in Chapter 8, for more information about charges that cannot be included in the rent.
- The reason stated in the complaint for your eviction is not one of the causes for eviction in the Anti-Eviction Act. (See the "Causes for Eviction" in Chapter 8.)
- The reason stated in the complaint why the landlord wants you out is not the same as the one in the landlord's notice to cease and/or notice to quit. The cause for eviction in the complaint must match the cause given in the notice to cease and/or notice to quit.

The judge should dismiss an improper eviction complaint because eviction cases are set up to be quick, and the landlord can always start the eviction process over again. Some judges will incorrectly allow a landlord to amend or change the complaint in court, so that the complaint is proper and the case can proceed to hearing. You should object if the judge allows an on-the-spot change to the complaint. If the judge allows the amendment anyway, ask to postpone the hearing so that you have time to prepare a defense to the amended or changed complaint.

You already paid the rent or can pay it on the court date

A common defense to an eviction for nonpayment of rent is to show that the rent has already been paid. This is why it is very important to get a rent receipt (signed by the landlord) for each rent payment, even if you pay by check or money order. You can prove that the rent has been paid by bringing receipts to court to show the judge. What if you agree that you owe the rent or you have a hearing and the judge finds that you owe rent? You can still have the eviction dismissed by paying the rent and court costs to the court

© 2020 Legal Services of New Jersey

before the court closes on the day of the hearing. *Cite*: N.J.S.A. 2A:18-55.

For example, at the end of your hearing, the judge finds that you owe $500 and enters a judgment for possession for nonpayment of rent. You immediately leave the court and call a relative or friend who agrees to lend you the money. The case against you can still be dismissed, and you will not be evicted if you can get the money (including court costs) to the courthouse and pay it to the court clerk before the court closes for the day, usually at 3:30 or 4:00 p.m.

The rent money and court costs are paid to the clerk of the Special Civil Part of the Superior Court. The clerk does not take personal checks. Cashier's checks or money orders are best and should be made out to Treasurer, State of New Jersey. The court clerk will give you a receipt and send the money to your landlord. The court clerk also will dismiss the eviction complaint against you. If you pay all of the rent to the court clerk before the hearing on your complaint, you should go to the hearing anyway to make sure that the judge knows you have paid the rent and dismisses the complaint.

Note: If you do not have the rent money, you may be able to get help paying your rent from a state agency or local charity. See "Programs to Prevent Eviction" in Chapter 12 for information about homelessness prevention programs.

Paying utility bills that your landlord is supposed to be paying

If your landlord is supposed to pay for utilities and does not pay the bill, you may be in danger of having your utilities shut off.

If your landlord is supposed to pay for utilities and does not pay the bill, you may be in danger of having your utilities shut off. If you receive a notice from an electric, gas, water, or sewer public utility that your service is in danger of being shut off, you may pay the utility to keep the service going. You may then deduct this amount from your rent, and the landlord cannot evict you because you have not paid that amount as rent. *Cite*: N.J.S.A. 2A:18-61.1(a).

If you pay for utility bills, keep the notices and your receipts from the utilities because the landlord may still try to evict you for nonpayment of rent.

Failure to obtain a certificate of occupancy

A municipality may have an ordinance that requires a landlord to obtain a certificate of occupancy (also known as a "C.O.") before the landlord can rent a unit. The certificate of occupancy, issued by the municipality, ensures that apartments meet code standards before they are rented. Failure by a landlord to obtain a certificate of occupancy can be used

© 2020 Legal Services of New Jersey

to show that the conditions in the apartment are poor and that this violates the landlord's duty to provide habitable housing. The conditions of the apartment determine how much rent is due. *Cite*: *McQueen v. Brown and Cook*, 342 N.J. Super. 120, aff'd 175 N.J. 2000 (2002). The court in this case said that if a landlord does not have a C.O., he or she must apply for one before trying to evict a tenant.

Failure to provide safe and decent housing

Chapter 6 explains the landlord's duty to provide safe and decent housing. It also explains the various ways you can use your rent to force your landlord to make repairs in your apartment or house. These ways include repair and deduct—using rent to make repairs yourself and then deducting the cost of the repair from the rent. Another way is rent withholding—keeping your rent payments from the landlord until he or she makes needed repairs.

Both repair and deduct and rent withholding involve not paying the landlord the rent when it is due. This means that if you take these steps, your landlord could take you to court for nonpayment of rent. In court, your defense to the landlord's claim for rent will be that he or she failed to provide you with safe and decent housing. You should review the sections of Chapter 6 that explain repair and deduct, rent withholding, and rent abatement, and remember that if you use repair and deduct and rent withholding as a defense to nonpayment of rent, you will have to show the court how serious the problems are in your apartment. For rent withholding, you may also be required to deposit with the court the full amount of rent you have withheld before you can get a hearing on your defense that your housing is unsafe and in need of repair. The judge does not have to do this, however, and can simply adjourn the case without requiring you to deposit the rent. To be safe, when you go to court after not paying the rent, you should take with you the full amount of rent you have withheld in cash, a certified check, or a money order. The court will not accept personal checks.

The landlord is wrong, did not prove one of the good causes for eviction, or is lying

If what the landlord says in the complaint is not true, you have the right to deny it. The landlord then has to prove that what he or she says is true. The law requires the landlord to prove that the complaint is based on facts. The facts that the landlord does show must also prove one of the legal grounds for eviction described in "The Tenant's Right to Court Process." If the facts shown by the landlord do not prove one of the limited grounds for eviction, the case must be dismissed, even if they prove something the landlord thinks should be enough to evict you. But be careful: sometimes a judge will believe the landlord over a tenant, so you should be ready to prove that you are right and that the landlord is wrong. You can do this by taking with you to court witnesses, photos, letters to or from the landlord, receipts, and anything else that might help prove your case.

© 2020 Legal Services of New Jersey

Waiver—the landlord knew about it but continued the tenancy

The landlord waives, or gives up, his or her right to evict you if he or she knows that you have been breaking the lease or any rules of the tenancy but still accepts your rent payment during this period. *Cite*: N.J.S.A. 46:8-10. Here are some examples of a waiver:

- The landlord sends you a notice to cease playing loud music and then sends you a notice to quit, telling you to leave by March 31. If the landlord accepts your April rent payment, the court can find that the landlord has waived the notice to quit. *Cite*: *Carteret Properties v. Variety Donuts*, 49 N.J. 116 (1967). However, while the acceptance of rent is a very important factor in determining whether the landlord has waived the notice to quit, it may not be sufficient, depending upon the facts of a particular case. *Cite: Jasontown Apts. v Lynch*, 155 N.J. Super 254 (App. Div. 1978).
- Your lease says that no pets are allowed, but the landlord has allowed you to have a pet since you moved in, and other tenants have also been allowed to have pets. *Cite*: *Royal Associates v. Concannon*, 200 N.J. Super. 84 (App. Div. 1985)
- The landlord sends a notice to cease but then later sends you other notices that contradict the notice to cease or that do not threaten the tenant with eviction. *Cite*: *A.P. Development Corp. v. Band*, 113 N.J. 485 (1988).

Retaliation—the landlord wants to get even

The law does not allow a landlord to evict you to get even for asserting your rights under the law or for enforcing your rights under the lease. The landlord also cannot evict you to get even for your complaining about conditions in your house or apartment to the board of health, building inspector, housing authority, or any other government agency. Finally, the landlord cannot evict you to get even for your involvement with a tenants association or any lawful organization. Each of these types of getting even (retaliation) are defenses to the eviction action. If you can prove that your landlord is trying to evict you in retaliation, the case will be dismissed. *Cite*: N.J.S.A. 2A:42-10.10 and 10.11. Be prepared to prove retaliation before you go to court.

Even if only one of the reasons the landlord wants to evict you is retaliation, you are protected from eviction by law and the landlord's complaint should be dismissed by the court. *Cite*: *Les Gertrude Associates v. Walko*, 262 N.J. Super. 544 (App. Div. 1993); *Housing Authority of Bayonne v. Mims*, 396 N.J. Super 195 (App. Div. 2007); *Silberg v. Lipscomb*, 117 N.J. Super 491 (Dist. Ct. 1971).

© 2020 Legal Services of New Jersey

Chapter 11
What Happens After the Eviction Hearing?

The information in this chapter is accurate as of December 2016, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

THE EVICTION PROCEDURE does not end when court is over. If you lost your case in the summary eviction hearing, the judge will have entered a judgment for possession. This allows the landlord to apply to the court for the issuance of the warrant for removal to have you evicted or removed from the property. There are still certain steps the landlord must follow to actually have you removed from your apartment or house, and this removal procedure takes time. Also, during this time, there are opportunities for the tenant to avoid eviction altogether or to get more time to move out. The judgment for possession does not allow the landlord to garnish your wages or attach any bank accounts you may have.

Note: You will not be locked out on the day of the hearing. You will not have to leave the apartment until after you receive the warrant for removal. After you receive the warrant for removal, you have at least three days to leave your apartment. The three days do not include weekends or legal holidays.

Warrant for removal

The warrant for removal is an order from the judge telling the Special Civil Part court officer to evict you. The landlord must send proof of the judgment to the court clerk, and the court clerk will issue a warrant for removal to the court officer. The law does not allow the warrant for removal to be issued by the court clerk until at least three business days after the judge enters a judgment for possession or an order of eviction. The three-day period is the legal amount of time a landlord must wait to start the process of removing you after the judge orders an eviction.

When the court officer gets the warrant for removal from the court clerk, the court officer then serves a copy of the warrant on the tenant. The warrant states that the tenant has three choices:

1. Move out within three days to avoid being evicted by the court officer. The three days do not include weekends or legal holidays. *Cite*: N.J.S.A. 2A:42-10.16.

2. Contest the warrant. This means asking for a new court date so that you can show why you should not be evicted and the warrant should be stopped. Your rent payments must be up to date in order to do this.

© 2020 Legal Services of New Jersey

3. Be evicted by the court officer. This means that the court officer will come to your apartment or house and remove you from the premises.

Note: Unless the landlord and tenant agree in writing to a longer time frame, the landlord must ask the court clerk to issue a warrant for removal within 30 days of getting the judgment. If the landlord waits longer than 30 days, the landlord will have to notify the tenant and go back to court to get permission to have the warrant issued. The same thing is true if the landlord does not ask the court officer to lock the tenant out within 30 days of the service of the warrant on the tenant by the court officer. The landlord will have to notify the tenant and go back to court to get permission to have the court officer complete the eviction.

If the court officer evicts you

If you do not voluntarily leave the apartment or you do not contest the warrant, the court officer will come to your apartment or house and evict you. If you are at home at the time, the court officer will put you out and padlock the door. The court officer may also remove your things from the house or apartment and have them put on the curb before locking the door.

The warrant gives the court officer power to use force or arrest if you try to stop the eviction. This act is legal in New Jersey. It is important that you leave the premises peaceably. By all means, do not argue or fight with the court officer.

Note: Even if the court officer locks you out, it is illegal for a landlord to hold or take your clothing or furniture to force you to pay rent. This act is illegal, even if you owe the rent. *Cite*: N.J.S.A. 2A:33-1.

Staying the warrant for removal—getting more time to move

By agreement with the landlord

After a judgment for possession has been entered, and even after a warrant for removal has been served, a tenant may still try to make an agreement with the landlord. If the landlord does agree, make sure the agreement is in writing and that a copy is filed with the court.

Going to court

Whenever you go to court to seek more time to move or to seek a stay of the warrant for removal, it is important to ask for a specific amount of time. Courts may not wish to give an open-ended stay.

Orders for orderly removal—stopping the lockout to get more time to move

When you get the warrant for removal, the warrant will tell you that you will be locked

© 2020 Legal Services of New Jersey

out in three days, not including weekends and holidays. If you cannot be out in three days and need more time to move and have good reason, you can ask the court for more time. One way to do this is to ask the court for an order for orderly removal. This means that the court can give you an extra seven days to move out voluntarily. The court can do this without having a court hearing. The court can allow you this time without requiring you to pay rent.

To get an order for orderly removal, you must go to the court clerk's office. Take with you your copy of the warrant. Forms for the application for orderly removal should be available in the clerk's office. You must give notice to the landlord that you are applying for an order. If the court grants an order for orderly removal, the landlord can seek to reverse it, but the landlord must give you notice. *Cite*: *Rule* 6:6-6.

If you need to stop the lockout for more than seven days in order to move out voluntarily, you will have to get a hearing date. You can do this by filing an order to show cause. To help you, forms for this should be available in the office of the clerk of the court.

Hardship stays—up to six months

The judge is allowed under law to give a tenant up to six months to stay in the rented property if certain conditions are met. This stay of the warrant for removal is called a hardship stay of eviction. To get a hardship stay, you must show that you have not been able to find any other place to live. You must also show that all of your rent has been paid, or that you are able to pay it. You must agree to pay the rent during the time the judge allows you to stay in the apartment. This means that you cannot get a hardship stay if you are evicted for nonpayment of rent, unless you can pay all of the rent that you owe and are able to pay future rent by the time you appear in court to contest the warrant for removal. In other cases, where you are evicted and your rent is current, a hardship stay can give you up to six more months to find another place to live. *Cite*: N.J.S.A. 2A:42-10.6.

Stays for terminally ill tenants

The law allows a judge to grant one-year stays of eviction if the tenant is terminally ill. To be eligible for this type of stay, the tenant must meet all of these conditions:

- Owe no back rent,
- Be terminally ill and so certified by a doctor,
- Have been a tenant of the landlord for at least two years before the stay is granted, and
- Show that there is a strong chance that the tenant will not be able to find and move to another place without suffering medical harm.

This law applies to all buildings, including owner-occupied buildings. *Cite*: N.J.S.A. 2A:18-59.1.

© 2020 Legal Services of New Jersey

How to overturn the warrant—vacating the judgment to prevent homelessness

In certain cases you may be able to avoid being evicted, even after the judge has ordered your eviction and the warrant for removal has been served on you by the court officer. Also, you may be able to get back into your apartment after the lockout. For example, you may obtain relief if:

- You did not get the summons and complaint, and the warrant for removal is the first court paper you received telling you of any legal action against you; or
- You have new proof showing that you should have won the case; or
- You were told by the landlord that the case was settled and that you did not have to go to court, but the landlord then went to court and obtained a judgment for possession.

Under court rules, a judge has the power to overturn a court decision or vacate a judgment or order. The Supreme Court has ruled that judges can stop an eviction based on nonpayment of rent when the tenant is able to pay all of the rent due (including court costs). Such action is necessary in order to prevent tenants from becoming homeless. A court can set aside a judgment "in the interest of justice." Even after a tenant has been evicted, a court can order a landlord to let a tenant back into the apartment. *Cite*: *Community Realty Management, Inc. v. Harris*, 155 N.J. 212 (1998); *Morristown Housing Authority v. Little*, 135 N.J. 274 (1994).

A formal paper, called an order to show cause or motion, must be filed with the court in order to ask the judge to set aside an eviction judgment. To set aside a judgment under this procedure, you must have all of the rent that is due, plus the landlord's court costs. You should ask the court clerk to help you file the order to show cause or motion if you can't get a lawyer to help you. The judge will conduct a hearing on your motion after it is filed with the court.

There are many programs—such as Emergency Assistance (EA) and the Homelessness Prevention Program (HPP)—that provide funds to certain low-income tenants to pay back rent in order to prevent eviction. Often, by the time a tenant learns of these programs, applies for help, and is granted assistance with back rent, the judgment for eviction has already been entered by the court and the warrant for removal may have been issued and served on the tenant. If, at this point, you offer to pay all of the rent but the landlord insists on evicting you, you can ask the court to vacate the judgment against you and order the landlord to accept the rent. You can even file for relief (ask that the judgment against you be dismissed) after you are locked out.

The Abandoned Tenant Property Law (N.J.S.A. 2A:18-72)

Sometimes, when a tenant is evicted or leaves an apartment on a voluntary basis, the tenant leaves property behind in the apartment. If you want to go back to get the property

© 2020 Legal Services of New Jersey

you left behind, you should notify the landlord in writing. Be sure to tell the landlord your current address. You should also tell the landlord why you left the property and when you will be back to get it.

A landlord may dispose of a tenant's property only if the landlord believes that the tenant is not going to try to get back into the apartment legally and has abandoned the items.

In addition, the landlord must give the tenant written notice that the landlord intends to dispose of the property. The notice must give the tenant a time period in which to claim the property. This is:

- 30 days after delivery of the landlord's written notice; or
- 33 days after the notice is mailed, whichever comes first.

If the property is a manufactured or mobile home, the notice must give the tenant:

- 75 days from the date of delivery of the notice; or
- 78 days from the date of mailing, whichever comes first.

After notifying the tenant that he intends to sell the tenant's property, the landlord must store the property in a safe place. The tenant is required to pay a reasonable storage cost and the cost of taking the property to the storage place.

If you want your property back, you should remove it as soon as possible. The landlord may dispose of the property if the tenant does not claim the property in time. Therefore, if you receive such a notice, you should immediately notify the landlord that you intend to reclaim the property. You should respond in writing because this will give you an extra 15 days from the time described above to get your property. If you do not notify the landlord in writing, you must remove the property in the time set out in the landlord's notice (as described above).

For information about citations, and how to get more information about a particular law, see "Finding the Law" in Chapter 1.

© 2020 Legal Services of New Jersey

Chapter 12

Special Programs for Tenants

Homelessness Prevention, Relocation Assistance, and Property Tax Rebates

The information in this chapter is accurate as of June 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

NEW JERSEY HAS ESTABLISHED PROGRAMS to prevent homelessness by providing assistance to cover back rent to low-income tenants who face eviction for nonpayment of rent. The state also operates a Relocation Assistance Program to help tenants who must move because their housing unit is no longer habitable or safe. The state also has a Homestead Property Tax Credit Act to return property taxes to tenants. These programs are discussed in this chapter.

Each of these programs has its own special purpose. Each program has its own set of rules and is administered by a different state or local agency. This chapter will help you to decide whether you might qualify for this assistance and where you can go to apply. If you are having trouble with any of these programs, you may want to contact your regional Legal Services office.

Programs to prevent eviction

New Jersey has several programs to help people who are in danger of being evicted and becoming homeless because they cannot pay their rent. The two major programs are the Emergency Assistance (EA) Program and the Homelessness Prevention Program (HPP). EA is only available to people who are receiving or would be eligible to receive welfare or Supplemental Security Income (SSI). HPP is available to people who are employed or receiving unemployment or disability payments.

Homelessness Prevention Program (HPP)

The Homelessness Prevention Program is funded by the state and operated by the New Jersey Department of Community Affairs. The primary purpose of the program is to help people who face eviction because they have fallen behind in their rent payments, and who have a chance to keep their housing unit if they can get a little help. *Cite*: N.J.S.A. 52:27D-280. HPP can also help people who are already homeless. HPP can pay a security deposit and a few months' rent to help people move into a home as long as they are able to show that they can pay the rent on their own after that.

© 2020 Legal Services of New Jersey

Back rent for tenants facing eviction. HPP provides money to tenants to pay rent that is due to the landlord to prevent eviction. To qualify for HPP, you must meet certain income limits. You must show that you got behind in your rent because of a temporary crisis, such as being laid off from your job. Also, you must prove that you will be able to afford to pay the rent in the future if HPP pays your back rent. You must also show that the landlord has served you with a summons and complaint for eviction for nonpayment of rent. To qualify for HPP, you must fill out an application and provide detailed information on your income and the pending eviction complaint against you. If you qualify, HPP can pay at least three months' back rent, and up to six months in special cases.

HPP vouchers. HPP gives vouchers to tenants who qualify for assistance. The HPP voucher is a promise by HPP to pay the landlord the amount of the voucher, which is the amount the tenant needs to pay to avoid eviction. If HPP agrees to give you a voucher to cover the back rent, you must get the landlord to accept the voucher as payment. If the landlord signs the voucher, he or she must also agree to dismiss the eviction complaint.

If you cannot get the landlord to sign the voucher before the court hearing, you must then ask the judge to order the landlord to accept the voucher at the eviction hearing. There have been several court rulings where eviction actions have been dismissed because the funds are available to the landlord. The New Jersey Supreme Court upheld a New Jersey law that says that the landlord cannot discriminate against tenants who get subsidies to help pay their rent. *Cite*: *Franklin Tower One, L.L.C. v. N.M.*, 157 N.J. 602 (1999). That law in a stronger form has now become a part of the New Jersey Law Against Discrimination. *Cite*: N.J.S.A. 10:5-12(g). Complaints against landlords who refuse to accept HPP funds can be filed with the New Jersey Division on Civil Rights. See Chapter 15, "Housing Discrimination," for more information about the law and where to file complaints.

How to apply for the Homelessness Prevention Program. HPP funds for back rent are distributed by local nonprofit organizations in every county in New Jersey. You can apply directly to the nonprofit administering the HPP in the county where you live. You can find a list of the HPP-responsible organization in each county on the internet at ***http://www.state.nj.us/dca/divisions/dhcr/offices/docs/hppcontacts.pdf*** or by calling 1(866) 889-8270. It often takes time to get a decision from HPP on whether or not they will help you. You may not have much time because the landlord has already begun the eviction action and you have a date to appear in court. It is very important that you contact HPP as early in the eviction process as possible and that you let them know when your eviction case will be heard in court. In many counties, a representative of the HPP program often goes to eviction court to see if there are people there who need help. Ask the court workers in and around the courtroom to tell you if the HPP worker is there.

HPP has limited funding. HPP gets a small amount of money from the State of New Jersey each year. In most years, HPP does not get enough money to help everyone who needs it. This funding shortage means that you may find that your local HPP office has run out of money, especially in the spring when the state fiscal year is coming to an

© 2020 Legal Services of New Jersey

In most years, HPP does not get enough money to help everyone who needs it.

end. It also means that you may have difficulty getting through to a local office or getting your application approved in time to prevent your eviction. If you are having trouble getting help from HPP, you can contact your regional Legal Services office or get help from another agency in your community that helps homeless people.

If you are denied HPP. If HPP denies your request, they must send you a notice explaining why you were denied. You have the right to contest the denial at an informal hearing, called a fair hearing. You must ask for this hearing. Unfortunately, the hearing is not an emergency, and you are likely to be evicted before your hearing.

Emergency Assistance (EA)

Money to pay back rent may also be available to tenants who are receiving or eligible to receive cash benefits from Work First New Jersey (WFNJ), or recipients of Supplemental Security Income (SSI), through a program called Emergency Assistance (EA). (The two welfare programs that are part of WFNJ are often called TANF, which is for families with children, and GA, which is for single people and childless couples.) EA can give you up to three months' back rent or up to three months' back utility payments in order to prevent eviction. It can also provide you with six months or more of rental assistance going forward.

If you actually are evicted and become homeless, EA also provides:

- Emergency shelter,
- Security deposits and advance rent to lease an apartment,
- Utility deposits for a new apartment,
- Temporary rental assistance (TRA) to help you pay for a new apartment, and
- An allowance for furniture if you need it.

How to apply for EA. You must apply for EA at your county welfare agency if you are eligible for WFNJ or SSI. (Single adults and childless couples who are eligible for WFNJ must apply at the local welfare department if the county welfare department has not taken over WFNJ.) To be eligible for EA, you must be homeless or expect to be homeless soon. In most cases, you will need to show proof of an eviction, usually an eviction complaint or notice from your landlord. You must also show that you were unable to pay your rent. You may show that you were unable to pay your rent, even if you received welfare money, if you had to use it to pay for food, clothing, and other essentials. If you are denied EA, you must receive a written notice, and you have the right to a fair hearing on the decision. If you ask for an emergency hearing, the hearing should be held on an emergency basis. If you are denied EA, you should contact your regional Legal Services office.

© 2020 Legal Services of New Jersey

Other rental assistance programs

There may be other programs in your area that can help you to pay back rent to prevent an eviction if you are not on public assistance. Money is made available each year by the state to each county to operate a Comprehensive Emergency Assistance System, or CEAS. Each county has a CEAS committee that decides how the money will be used and which agencies in each community will receive this money. These local agencies then use this money to help people facing eviction or to provide shelter to homeless people. If your landlord is taking you to court for nonpayment of rent, call your county Board of Social Services and ask where to find such a program in your county.

Some churches and community groups have programs and money they use to help people who owe rent or are already homeless. Ask the Board or Social Services, a local church or charitable organization, or even the local police if they know which churches or groups do this. Many counties also have a special "hotline" phone number to help people with problems like homelessness. The number to call is 211.

These programs usually have very little money. They can pay only one or two months' back rent and help only a few families each month. It is important to call your county Board of Social Services and the other groups that might be able to help as soon as you know your landlord is trying to evict you.

Relocation assistance

Tenants are often forced to move from their homes because of action taken by a government agency. This is called displacement. The reasons an agency could order a tenant to move include the following:

- The building is to be boarded up or torn down with government approval.
- The landlord is ordered by the housing or building inspector to make repairs that cannot be made unless the tenants move.
- The landlord has allowed more people to live in a unit than the law allows, or the landlord has made a separate apartment out of a part of the building—such as an attic or a basement—that it is not legal to rent.
- The building is being taken over by a government agency to be used to build a school playground, a highway, a police station, a neighborhood renewal program, or some other public project.
- The landlord is not allowed to rent the apartment or room because of zoning laws.
- The law requires that tenants forced to move for any of the above reasons be eligible for relocation assistance. *Cite*: N.J.S.A. 20:4-1, et seq.; N.J.S.A. 52:31B-1, et seq.; N.J.A.C. 5:11-1, et seq.; N.J.S.A. 2A:18-61.1(g) or 2A:18-61.1(h).

© 2020 Legal Services of New Jersey

What is relocation assistance?

Relocation assistance is money and other support to help displaced tenants find a new place to live. Eligible tenants may be able to receive the following payments:

- Money for temporary housing until the tenant finds a permanent home, if the government agency forces the tenant to move out immediately due to an emergency.
- A payment to cover the tenant's actual moving costs, or a dislocation allowance of $200 and a fixed moving payment of up to $300, based on the number of rooms occupied.
- Up to $4,000, payable over three years, to meet rental expenses, or up to $4,000 to help with the required down payment expenses to purchase a house.
- Help to locate a new, affordable place for the tenant to live.

Tenants living in illegal apartments that violate the town's zoning laws cannot be evicted unless they receive relocation assistance from the landlord (or the town, if it has a special law) in the amount of six times the monthly rent. This money must be paid to the tenant at least five days before the tenant is evicted. *Cite*: N.J.S.A. 2A:18-61.1(g) or 2A:18-61.1(h); *Kona Miah v. Ahmed*, 179. N.J. 511 (2004).

Which agency provides relocation assistance?

If the landlord is trying to evict you because your apartment is not legal and violates the local zoning laws, the landlord must pay the relocation assistance. (See the preceding section.) In all other cases, the law makes the government agency that orders you to move responsible for relocation payments, including money payments. The government agency will usually be a city, town, or township agency that is involved in any of the actions described above, such as the housing inspection office, health department, or fire department. Many cities have a relocation officer who must make sure that relocation assistance is available whenever any city agency causes displacement. The operation of local relocation support programs is monitored by the New Jersey Department of Community Affairs in Trenton. Be aware: Cities and towns do not like to pay relocation assistance benefits, even to people who are eligible for them. Displaced tenants are often told that they are not eligible for these benefits when they clearly should receive them. Sometimes, tenants are told that towns "don't give relocation assistance." If you think you are eligible for relocation assistance and are not satisfied with the response of your local agency, contact your regional Legal Services office for further advice.

How can I obtain relocation assistance?

Visit your city or county relocation support office and ask if you are eligible for relocation assistance. You should contact the relocation support office as soon as you receive any notice that states that you must move because of bad conditions in your apartment, whether the notice is from your landlord or from a city agency. If you have any problems with your local relocation agency, you may appeal. Call and/or write:

© 2020 Legal Services of New Jersey

Relocation Support Program
Department of Community Affairs
P.O. Box 802
Trenton, NJ 08625
(609) 984-7609

How can I protect my right to receive relocation assistance?

There are several steps you can take to protect your right to receive relocation assistance:

- Do not move from your apartment or home until you get a notice from the relocation office telling you that you are eligible for relocation assistance and that you must move.
- If you find housing on your own, ask the relocation officer to inspect the housing before you move to make sure that the housing is safe and decent.
- If the relocation officer finds housing for you to move into, make sure that the housing is decent, safe, and sanitary; near your work, transportation, and public facilities; affordable; and large enough for you and your family.
- File an application for relocation assistance benefits as soon as possible, but no later than 12 months after your moving date.

Displacement by fire

Tenants who have lost their housing because of fire do not have an absolute right to receive relocation assistance benefits. Under state law, cities may provide fire victims with limited benefits. You must check with your local housing or fire inspector to see if your city or town provides relocation assistance to fire victims. *Cite*: N.J.S.A. 20:4-3.1. Another law allows tenants to sue to force their landlord to repair their fire-damaged apartments. This law states that if a tenant's apartment or rented house is damaged by fire, and the fire is not the tenant's fault, the landlord must repair the fire damage as quickly as possible. The law also excuses a tenant from paying rent until the repairs are made. However, this law may not help you if your lease contains provisions that are different from those in the law. *Cite*: N.J.S.A. 46:8-6.

Property tax rebates for tenants

For many years, lower-income tenants and seniors have periodically been eligible for tax rebates and refunds through state-funded programs. Benefits and eligibility vary depending upon how much funding the state is willing to dedicate to the programs. For example, when funding is low, rebates are often limited to lower-income senior homeowners, with tenants being entirely left out. The situation changes from year to year—that is why it is important for tenants to check each year to see if they are eligible.

© 2020 Legal Services of New Jersey

For the latest information about these programs, call the New Jersey Division of Taxation at (609) 292-6400 or go to the Division's website at ***www.state.nj.us/treasury/taxation***. You may also contact the Taxpayer Legal Assistance Program at Legal Services of New Jersey or your local or state tenants organization.

© 2020 Legal Services of New Jersey

Chapter 13

Condominium and Cooperative Conversions

Tenants are protected when buildings are converted

The information in this chapter is accurate as of February 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

TENANTS CAN FACE EVICTION if their building or apartment is being converted into a condominium or cooperative. The Anti-Eviction Act protects all tenants from eviction due to condominium conversion for at least three years, and possibly for several more years. In Hudson County, the law also protects senior citizens and their spouses, handicapped tenants and their families, and lower-income residents against conversion-related eviction. This chapter gives a brief description of these legal protections.

Conversions are complicated: Get help!

The legal process to convert a rental building to a condominium or a cooperative is complicated, as are the laws protecting tenants. If you learn that your building is undergoing conversion, or will be converted in the future, it is important that you seek legal advice from a lawyer who knows about these laws. Your regional Legal Services office can help if you are eligible.

Basic steps in conversion

Landlords must follow certain steps to convert rental housing to condominiums or cooperatives. Landlords must follow four different laws:

- The Planned Real Estate Development Full Disclosure Act. *Cite*: N.J.S.A. 45:22A-21.
- The Senior Citizen and Disabled Protected Tenancy Act. *Cite*: N.J.S.A. 2A:18-61.22.
- The Anti-Eviction Act. *Cite*: N.J.S.A. 2A:18-61.1(k) and 2A:18-61.8.
- The Tenant Protection Act of 1992. *Cite*: N.J.S.A. 2A:18-61.40.

An owner who plans to convert a building or a mobile home park must first give each tenant two separate documents: (1) a notice of intent to convert and (2) a full plan of conversion. The notice of intent to convert and the conversion plan must be sent by certified mail. In addition, the owner must give tenants a three-year notice to quit or vacate the

© 2020 Legal Services of New Jersey

The Anti-Eviction Act protects all tenants from eviction due to condominium conversion for at least three years, and possibly for several more years.

rental unit because of the conversion. The notice of intent to convert and the conversion plan documents must be given to all affected tenants at least 60 days before giving the tenants the three-year notice to quit.

The laws concerning conversion must be strictly followed by the owner. If the owner does not provide all of the information required in the proper form and in the proper way, the owner may not be able to evict the tenant at the end of the three-year notice period. *Cite*: *Riotto v. Van Houten*, 235 App. Div. 177 (App. Div. 1989); S*ibig and Co. v. Santos*, 244 App. Div. 366 (App. Div. 1990).

The notice of intent to convert. The notice of intent to convert must contain three separate items:

- A notice to the tenants of their right to buy ownership in the property at a set price.
- A notice that each tenant has an exclusive right to buy his or her apartment in the first 90 days after receiving the notice of intent to convert. The notice must also state that, during the 90 days, the apartment cannot be shown to anyone else unless the tenant has given up his or her right to buy in writing.
- A copy of the regulations on conversions approved by the New Jersey Department of Community Affairs. These regulations explain the tenant's rights under the Anti-Eviction Act.

The full plan of conversion. The full plan of conversion must contain a great deal of very specific information. For example, the plan must contain a legal description of the property, the price of the apartment, terms of sale, and a copy of the deed to the apartment, if purchased. The plan is defective if it does not contain all of the required information. The requirements for a conversion plan are very complicated, and you should have a skilled attorney review them for you.

Three-year notice to vacate or quit. After giving tenants the notice of intent to convert and the plan for conversion, the owner must then give tenants who choose not to buy ownership in a condo or co-op a three-year notice to vacate or quit the rental unit. The owner cannot file a court action to evict the tenant because of the conversion until the end of the three-year notice period. This means that tenants have a minimum of three years before their landlord can take them to court to ask that they be evicted because of the conversion. In addition, any time left on a written lease must also end before an eviction case can be started, even after the end of the three-year notice period.

The notice to quit must state the reason for ending the tenancy and must be served personally by giving a copy directly to the tenant or by leaving a copy at the tenant's home with a family member over the age of 14. It can also be served by certified and regular

© 2020 Legal Services of New Jersey

mail. If the regular mail is not returned, the tenant is presumed to have been served.

The right to ask for comparable housing. Tenants who have received the notice to quit can ask the landlord in writing for a reasonable opportunity to look at and rent comparable housing. This right to ask for comparable housing extends for 18 months after receipt of the notice to quit. Comparable housing means housing that meets all local and state housing codes and is equivalent to the apartment in which the tenant then lives in size, number of rooms, major facilities, rent, and in other ways. The requirements on the owner to offer reasonable opportunities for comparable housing are detailed, and tenants should consult with a knowledgeable attorney for further advice.

Rent increases during the three-year notice period. Tenants are given some protection against unfair rent increases during the three-year notice period and for the entire time they remain in the apartment, including during any hardship stays of eviction (postponements). Tenants continue to be covered by rent control if rent control applies to the building. Also, an owner who asks the rent control board for a hardship increase cannot use any increases in costs resulting from the conversion to justify his or her claim of hardship. *Cite*: N.J.S.A. 2A:18-61.31.

Tenants in towns without rent control can receive only reasonable rent increases. The owner cannot use any increases in costs resulting from the conversion to justify a rent increase. For example, an owner may not raise rents because his taxes have risen because of the conversion. *Cite*: N.J.S.A. 2A:18-61.31. In this situation, tenants should seek legal advice.

Tenants continue to be covered by rent control if rent control applies to the building.

Further delays in evictions. Tenants should also seek legal advice when faced with a court action for eviction after the three-year notice period. There are complicated rules on the circumstances under which the judge can grant further stays or postponements of eviction. The general rules are that the owner must show that a tenant who requested comparable housing within the first 18 months was actually offered comparable housing. If the tenant requested comparable housing and it was not offered, the court must grant a one-year stay (postponement). After at least a one-year stay, the court cannot give any more stays if the owner provides the tenant with hardship relocation compensation. Hardship relocation compensation is a waiver of five months' rent. A tenant who receives this compensation can live rent free for five months. However, the court will automatically renew the one-year stay if the owner does not provide this relocation compensation and fails again to give the tenant a reasonable chance to find similar housing. The court can give up to five one-year stays as long as the landlord does not give the tenant an offer of comparable housing or hardship relocation compensation. *Cite*: N.J.S.A. 2A:18-61.11.

Additional requirements. There are several additional legal requirements that must be met by owners. First, the owner must give any tenant whose tenancy began

© 2020 Legal Services of New Jersey

before the conversion, and who is evicted because of the conversion, a waiver of one month's rent for the cost of moving. *Cite*: N.J.S.A. 2A:18-61.10. Second, any tenant who moves in after the owner has officially filed to convert to condo or co-op must be given notice that the building is being converted. The tenant also has to be warned that he or she can be evicted after 60 days' notice if the unit is sold to a new owner who wants to personally move in. *Cite*: N.J.S.A. 18-61.9. Third, the owner or buyer of a condominium unit can be liable to a tenant in a civil action for three times the amount of damages plus attorney's fees and court costs for misleading the tenant in any way about the conversion. *Cite*: N.J.S.A. 2A:18-61.9.

Special protections for senior citizens and the disabled

The law protects from eviction for up to 40 years qualified senior citizens and disabled people who live in buildings being converted to condominiums or cooperatives. During this protected period, these tenants must continue to pay rent and follow reasonable rules and regulations, or they can be evicted for some other reason, such as nonpayment of rent. *Cite*: N.J.S.A. 2A:18-61.22.

Qualifications for protection

Senior citizens qualify for protection from eviction if they (1) have an income not higher than three times the per capita (average) income in the county they live in or $50,000, whichever is greater; (2) have lived in the building for one year or have a lease with longer than a one-year term; (3) are over 62 years old; and (4) live in a building containing at least five rental apartments. Disabled people qualify if they are unable to work because of a physical or mental impairment, or they are veterans who have a service-connected disability of 60 percent or more. Disabled people must also meet the income standards and have lived in the building with at least five rental units for one year, or have a lease with longer than a one-year term. *Cite*: N.J.S.A. 2A:18-61.24.

The law protects qualified senior citizens and disabled tenants from eviction for up to 40 years.

How to apply for protection

The city or town will send an application form for protected tenancy to every tenant in the building before a landlord converts a building. Seniors or disabled tenants who wish to apply must fill out the form and return it to the town within 60 days of receipt. The tenant must also sign a written statement, sworn before a notary public, giving his or her income and stating that he or she has either lived in the apartment for one year or has a long-term lease.

The city must decide in writing within 30 days after the application is filed if the tenant qualifies. A tenant who qualifies is eligible for protection if the landlord goes ahead with

© 2020 Legal Services of New Jersey

the conversion. *Cite*: N.J.S.A. 2A:18-61.28.

The application for protection should be sent to the city within 60 days of receiving it. Tenants can still apply for protection even weeks or months later, as long as the application is made before a court actually enters a judgment for eviction, or before the apartment is sold to a person who intends to live in it. Tenants who applied for and were not given protection because they did not qualify (because they were over income or for other reasons) can apply again. This can be done even a year or more later, as long as they reapply before a court judgment or before the apartment is sold. *Cite*: *Ellin Corp. v. Tp. of North Bergen*, 253 N.J. Super. 434 (App. Div. 1992).

Protections against rent increases

Qualified senior citizens and disabled ten- ants also receive protection from unreasonable rent increases. Rent control continues to apply to protected tenants if the building is covered by rent control, and an owner who asks the rent control board for a hardship increase is not allowed to use the additional cost of the conversion as a reason for a hardship rent increase. Where rent control does not apply, any rent increase must be reasonable. Also, the owner cannot use any increases in costs resulting from a conversion to justify a rent increase. Protected tenants facing rent increases should seek knowledgeable legal help. *Cite*: N.J.S.A. 2A:18-61.31.

Special Hudson County protections

The law provides additional protections for certain tenants living in Hudson County. *Cite*: N.J.S.A. 2A:18-61.40. Qualified Hudson County tenants are permanently protected from eviction due to the conversion of their building. Qualified tenants must continue to pay rent and follow reasonable lease rules. They can still be evicted if their landlords can prove in court one of the other legal causes for eviction.

Qualifications for protection

Hudson County tenants qualify for protection from eviction if their household income is below certain amounts that are established each year. These tenants must also have lived in their apartments for at least 12 months before they apply for protection. They must also apply for protection before the landlord gets permission from the state to convert.

Before an owner can convert, all tenants in the building must be notified in writing that they have a right to apply for special protection from eviction. The state will not allow the owner to convert unless the owner can show that all tenants have been notified of their right to apply for protection.

How to apply for protection

The city will send an application to every tenant in the building before a Hudson County owner converts a building. Tenants who wish to apply for protection must fill out the form and return it to the town within 60 days of receipt. Tenants may also have to sign

© 2020 Legal Services of New Jersey

a written statement, sworn before a notary public, giving their income and stating that they have lived in the apartment for 12 months.

The city must notify tenants who qualify in writing within 30 days after receiving the applications. Tenants who do not qualify for these special Hudson County protections still have the same rights as all other tenants in conversions, as discussed above.

Other requirements

Hudson County tenants can lose their protection against eviction if their household income goes higher than the amounts allowed in the law. Tenants can also lose protection if they no longer reside in the apartment. In addition, the rent for protected Hudson County tenants continues under rent control if their building is covered by rent control. An owner who asks the rent control board for a hardship increase cannot use increases in costs from conversion as a reason for a hardship rent increase. If rent control does not apply, an owner can only receive reasonable rent increases that do not include any increases in costs resulting from conversion.

© 2020 Legal Services of New Jersey

Chapter 14
Rooming and Boarding Homes and Mobile Home Parks

The information in this chapter is accurate as of February 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

THOUSANDS OF PEOPLE, most of them poor and elderly, live in rooming and boarding homes in New Jersey. Some of these buildings are old and greatly in need of repair. Some have narrow hallways with poor lighting and don't have proper electrical and heating systems. This makes them fire hazards and hard to escape from when a fire occurs. The poor and elderly who live in these homes are often victimized by landlords who take advantage of the residents' fear of eviction by demanding high rents for poor living conditions.

Thousands of other families reside in mobile home parks throughout New Jersey. Mobile home residents are in an unusual situation—they usually own their mobile home but have to lease the lot on which the home sits from a mobile home park owner. There are a limited number of licensed and approved mobile home parks. Almost none of these parks accept homes moved from another park. For this reason, mobile home residents have little room to bargain if they have a dispute with a park owner.

Special laws have been passed to protect residents of rooming and boarding homes and mobile homes. This chapter explains these protections.

Protections for rooming and boarding house residents

The Rooming and Boarding House Act is designed to protect residents living in rooming and boarding homes. Under the law, the Department of Community Affairs (DCA) is responsible for inspecting every rooming and boarding home in New Jersey. DCA must make sure that each home is safe and decent. DCA must also make sure that the owner or manager of the house respects the rights of residents. For example, DCA must make sure that the building is fire safe, has no serious plumbing or electrical problems, has enough light and air, is clean, and is secure. DCA must make sure that the house is well run. They must also make sure that there are no violations of the residents' legal rights, such as the right to have visits from family, friends, and social workers. *Cite*: N.J.S.A. 55:13B-1.

The licensing process

Every rooming and boarding home must apply each year to DCA for a license. DCA must then inspect the homes and review their records each year. If DCA discovers that a

© 2020 Legal Services of New Jersey

building needs repairs or that other violations exist, it must send the owner a written notice of the violations. The written notice must state the date and time by which the owner must correct the violations. If the repairs are not made by the required date, DCA can (1) order the house to be closed, (2) fine the owner for the violations, or (3) ask a court to appoint a receiver. The receiver's job is to make any necessary repairs or improvements and take all other steps necessary to properly operate the home. DCA can authorize a county or municipality to do the inspections. If it does, DCA must control and supervise the inspections.

Protections against eviction

The protections in the Anti-Eviction Act apply to rooming and boarding home residents. This means that these residents are entitled to the same protections as all other tenants. This includes the protections against eviction listed in Chapter 8, "The Causes for Eviction." *Cite*: N.J.S.A 55:13B-6(e); N.J.S.A. 5:27-3.3; N.J.S.A. 2A:18-61.1. In addition, if a resident is displaced from a rooming or boarding home due to code enforcement, the resident is eligible for relocation assistance. See "Relocation Assistance" in Chapter 12.

Other rights of boarding home residents

The law says that every resident of a boarding home has the right to:

- manage his or her own financial affairs;
- wear his or her clothing in the style he or she prefers;
- style his or her hair according to his or her preference;
- keep and use personal property in his or her room, except where the boarding house can show that this would be unsafe or impractical, or that it would interfere with the rights of others;
- receive and send unopened mail;
- unaccompanied use of a telephone at a reasonable hour and to a private phone at the resident's expense;
- privacy;
- hire his or her personal doctor at his or her own expense or under a health care plan;
- privacy concerning his or her medical condition and treatment;
- unrestricted personal visits with any person of his or her choice, at any reasonable hour;
- be active in the community;
- present complaints for his or her own self or others to government agencies or other persons without threat of reprisal (getting even) in any form or manner;
- a safe and decent living environment and care that recognizes the dignity and

© 2020 Legal Services of New Jersey

individuality of the resident;

- refuse to work for the boarding facility, except as contracted for by the resident and the operator;
- practice his or her religion;
- not be deprived of any legal right solely because he or she lives in a boarding house; and
- be free from retaliation by the owner if the resident tries to stand up for or enforce his or her rights. *Cite*: N.J.S.A. 55:13B-14 and 19.

The owner must give each resident written notice of these rights, and the notice must be posted in the home. The notice must include the name, address, and telephone number of social services agencies, including the Office of the Ombudsman for the Institutionalized Elderly, the county welfare agency, and the county Office on Aging.

Any resident whose rights are violated can sue the offender. The resident can ask for actual and punitive damages, reasonable attorney's fees, and costs of the action. *Cite*: N.J.S.A. 55:13B-21.

Protections for mobile home tenants

Mobile home owners are also tenants because they rent space in mobile home parks. For this reason, mobile home owners are protected from eviction under the Anti-Eviction Act. They are also covered by the New Jersey Homestead Property Tax Credit Act. Court decisions have also established that other landlord-tenant laws, covering security deposits, receivership, truth in lending, landlord identity, discrimination against children, self-help eviction, distraint, and reprisal (getting even), also apply to mobile home owners, even though mobile homes are not specifically mentioned in these laws. *Cite*: *Fromet Properties, Inc. v. Buel*, 294 N.J. Super. 601 (App. Div. 1996); *Pohlman v. Metropolitan Trailer*, 126 N.J. Super. 114 (Ch. Div. 1973). Mobile home tenants also have special protections under the Mobile Home Act. These protections are explained in the sections that follow.

Requirement for a written lease

The Mobile Home Act requires park owners to give at least a one-year written lease to all renters of space within a month after they move in. This is the only form of residential tenancy in New Jersey where a written lease for a particular period of time is required. *Cite*: N.J.S.A. 46:8C-4.

However, the park owner may have a written rule about the style or quality of the type of equipment to be used by the home owner. A mobile home owner cannot be forced to buy equipment from a park owner or a particular outlet. The mobile home owner may sue the park owner in civil court if this happens.

A mobile home park owner cannot require a resident to buy either a mobile home or necessary equipment from a particular seller. *Cite*: N.J.S.A. 46:8C-2.

© 2020 Legal Services of New Jersey

Moving and selling mobile homes

A mobile home park owner cannot ask a tenant to move his or her mobile home within the park unless the move is reasonably necessary. The owner must also serve the tenant with a 30-day notice. In an emergency, the operator may move the mobile home but is responsible for all costs for any damages to the mobile home resulting from the move. *Cite*: N.J.S.A. 46:8C-2.

A mobile home owner who plans to sell his or her home must give written notice to the park owner. It is unlawful to try to sell a mobile home without the park owner's consent or knowledge. Before selling a mobile home, the seller must give the buyer an application for park tenancy. The buyer must then return the application in person to the park owner or operator. A park owner has the right to approve who buys a mobile home in the park but cannot deny anyone without reason. If the park owner unreasonably refuses to approve the buyer, the home owner or the intended buyer can sue in Superior Court. The court can award damages, costs of the lawsuit, and attorney's fees. The court may also require the park owner to rent to the prospective buyer. A valid reason for refusal would be an unsatisfactory credit report on the prospective buyer. *Cite*: N.J.S.A. 46:8C-3.

A park owner can refuse to approve an interested buyer if the park has been legally designated for senior citizens and the tenant is below the minimum age requirement. However, in a park that is not reserved for seniors, discrimination against buyers with children may be against state and federal law. Please seek legal advice if you think you are experiencing this type of discrimination.

Disclosure of fees

A mobile home park owner must make known to the tenants and the public all fees, charges, assessments, and rules. These disclosures must be in writing and must be given to tenants before they move in. Any additional fees, charges, assessments, rules, or changes must also be in writing and given to mobile home tenants at least 30 days before the effective date. If the written notice is not given, the park owner cannot use a mobile home owner's failure to comply as a cause for eviction. *Cite*: N.J.S.A. 46:8C-2.

It is unlawful for a mobile home park owner to ask for or receive a donation or gift directly or indirectly from someone who wants to rent a space in the park. This is a disorderly persons offense, and the owner can be prosecuted in municipal court. If such a payment is made, the homeowner can sue to recover the amount paid. The judge can award double the amount of the unlawful payment, court costs, and attorney's fees. *Cite*: N.J.S.A. 46:8C-2.

Rent increases and maintenance

Rent increases for mobile home owners are subject to the same notice requirements and other limits, including rent control if applicable, as those for all other tenants. The mobile home park owner is responsible for the general upkeep of the park. This includes the maintenance of all services agreed to in the lease. If the park owner does not maintain

© 2020 Legal Services of New Jersey

the area or services properly, it constitutes a breach of the warranty of habitability, and the tenant may seek justice in the same ways any other tenant would.

Manufactured Home Owners Association

There is an association of mobile home owners that can provide information and other assistance to mobile home owners. Please contact:

MHOA NJ
P.O. Box 104
Jackson, NJ 08527
Phone: (732) 534-0085
www.mhoanj.org

© 2020 Legal Services of New Jersey

Chapter 15
Housing Discrimination

The information in this chapter is accurate as of February 2015, but laws often change. Please check our website, www.LSNJLAW.org. for updates to this handbook, or talk to a lawyer for up-to-date legal advice.

Discrimination in renting is illegal

State and federal laws make it illegal for a landlord or real estate agency to refuse to rent to families with children.

NEW JERSEY AND UNITED STATES LAWS prohibit discrimination in the rental of housing. These laws are called *fair housing laws*.

This chapter describes illegal discrimination and what you can do about it if you believe a landlord or real estate agency is violating fair housing laws.

Under state and federal laws, it is illegal for a landlord or real estate agency to refuse to rent to you because of your race, religion, color, national origin, ancestry, marital status, sex, sexual orientation, or physical or mental handicap. These laws also make it illegal for a landlord or real estate agency to refuse to rent to you because you are pregnant or your family includes children under 18 years of age.

Refusal to rent to Section 8 recipients and people with other types of income

New Jersey law also makes it illegal for a landlord to refuse to rent to a person because the person has a Section 8 voucher or another type of housing assistance. *Cite*: N.J.S.A. 10:5-12(g). This applies to tenants who obtain Section 8 while already tenants in a house or apartment, and to tenants who are seeking to rent from a landlord for the first time. A landlord cannot refuse to accept rental assistance from a tenant and then turn around and sue to evict that tenant for nonpayment of rent. *Cite*: *Franklin Tower One, L.L.C. v. N.M.*, 157 N.J. 602 (1999).

If you have a Section 8 voucher or another subsidy and a landlord refuses to rent to you, you should immediately contact an attorney or the New Jersey Division on Civil Rights. (New Jersey law also makes it illegal to refuse to rent to a person who will pay rent with other sources of income, such as welfare, alimony, or child support. *Cite*: N.J.S.A. 10:5-12[g].)

© 2020 Legal Services of New Jersey

The New Jersey Division on Civil Rights has five local offices. You should call the local office that handles cases in your county. See page 123. Also, see the information under the section "What may not be discrimination," in this chapter.

Discrimination against families with children

State and federal laws make it illegal for a landlord or real estate agency to refuse to rent to families with children. *Cite*: N.J.S.A. 10:5-12(g)(5). There are, however, some exceptions. A landlord can refuse to rent to families with children if the building was built only for senior citizens. But every apartment in such a building must be occupied by people over the age of 62. Retirement communities for people over 55 can refuse to rent to families with children, but only if they meet certain requirements.

Under state law, it is illegal for a landlord to refuse to rent to a couple because they are not married. *Cite*: *Kurman v. Fairmount Realty Corp*., 8 N.J. Admin. Reports 110 (1985). Also, see the information under the section "What may not be discrimination below."

Special protection for the disabled

If you are handicapped or disabled, federal and state laws have additional protections against discrimination. It is illegal for a landlord to refuse to rent to you just because of your handicap or disability.

The law also says that the landlord must be willing to make reasonable changes to its rules or policies as they apply to you in order to make it possible for you to become or remain a tenant or enjoy an apartment, as long as the changes you are asking for are legal. These changes to policies, rules or practices are called "reasonable accommodations." *Cite*: 42 U.S.C. § 3604 and N.J.S.A. 10:5-4.1.

The landlord also cannot refuse to make reasonable changes to your apartment that will make it easier for you to live there. This means that the landlord must let you provide handrails, ramps, or any other special equipment you need. You will have to pay for these changes yourself. (*Note*: If you live in a subsidized building, the landlord may have to pay for the changes.) You will also have to pay the reasonable cost of removing the ramps or handrails or other changes when you move out of the apartment, if that is what the landlord wants. *Cite*: 42 U.S.C. § 3604 and N.J.S.A. 10:5-4.1.

The landlord may be able to make you deposit money into a special bank account each month to cover the cost of removing the ramps and other equipment when you move out. The landlord can only make you deposit this money if he or she can prove that the changes you need will be very expensive. However, the payments must be low enough that you can afford them, and must stop after the amount needed to make the changes has been deposited. The landlord must give you the interest earned on this special account.

State law also permits a tenant with a disability to terminate a lease because the apartment or home is not "handicapped accessible." You can break your lease only if you asked your landlord to make the unit accessible and the landlord is unwilling or unable to do so. *Cite*: N.J.S.A. 46:8-9.2. Also, see the next section, "What may not be discrimination."

© 2020 Legal Services of New Jersey

What may not be discrimination

There are certain reasons a landlord may refuse to rent to you that are not illegal discrimination. A landlord doesn't have to rent to you if your income is not high enough to afford the rent or if a check of your financial background shows that you have failed to pay rent for apartments in the past or have been unable to pay other debts. But these reasons may not be good reasons if you have a Section 8 voucher or another type of housing assistance. *Cite*: *T.K. v. Landmark West*, 353 N.J. Super. 223 (2002). However, see *Pasquince v. Brighton Arms Apartments*, 378 N.J. Super. 588 (App. Div. 2005), where the court held that a person with a Section 8 voucher could be denied an apartment if there was a poor credit history. It depends on the facts of the case. If you have a Section 8 voucher or another subsidy and a landlord refuses to rent to you because of your credit history or the amount of your income, you should contact an attorney or the New Jersey Division on Civil Rights. See "Refusal to rent to Section 8 recipients and people with other types of income" on page 120.

A landlord can refuse to rent to you if your family is too large for the size of the apartment. Whether or not your family is too large usually depends upon how big the whole apartment is, not just how many bedrooms it has. Landlords can also refuse to rent to you based upon your criminal history. But you may be able to fight what the landlord is doing if you can show the landlord is really discriminating based upon race or religion or some other illegal category. You could also try to challenge the landlord's use of criminal history if the policy the landlord is using seems unreasonable or is not being apply to everyone in the same way. If you are being rejected for public or subsidized housing, your right to challenge the housing authority's or private landlord's rejection policies is stronger than for unsubsidized private housing.

It is important that you ask the landlord to be specific about why he or she is refusing to rent to you. If you suspect illegal discrimination, get help from a fair housing group, Legal Services, a private attorney, or the Division on Civil Rights.

How to file a discrimination complaint

Housing discrimination occurs frequently in New Jersey. There are government agencies set up to investigate complaints of housing discrimination.

If you feel that the landlord will not rent an apartment to you because of your race, religion, color, national origin, ancestry, marital status, sex, handicap, sexual preference, source of income for rent payment, or because you have children, you can do several things.

You can file a discrimination complaint directly with one of three government agencies. These agencies are required to investigate your complaint and take action to help you if they find that you have suffered discrimination. They can make landlords who discriminate pay money damages and can even get you into the apartment you wanted but were denied. Landlords who violate the Law Against Discrimination are subject to substantial fines—up to $10,000 for a first offense. *Cite*: N.J.S.A. 10-5-14.1(a).

© 2020 Legal Services of New Jersey

It is important to call or write to these agencies immediately if you believe you are the victim of housing discrimination. You will want these agencies to investigate your complaint right away.

There are two main agencies—one federal and one state—that handle housing discrimination complaints:

The U.S. Department of Housing and Urban Development (HUD)
Fair Housing and Equal Opportunity Division
New York Regional Office of FHEO
26 Federal Plaza, Room 3532
New York, NY 10278-0068
1-800-669-9777 (discrimination complaints)
(973) 622-7900 (HUD complaints)
www.hud.gov/program_offices/fair_housing_equal_opp/online_complaints
Email: *ComplaintsOffice02@hud.gov*

New Jersey Department of Law and Public Safety Division on Civil Rights

Northern Regional Office
31 Clinton Street, 3rd Floor
Newark, NJ 07102
973-648-2700
Fax: 973-648-4405

Central Regional Office
140 East Front Street, 6th Floor
P.O. Box 090
Trenton, NJ 08625
609-292-4605
Fax: 609-984-3812

Southern Regional Office
5 Executive Campus, Suite 107
Cherry Hill, NJ 08034
856-486-4080
Fax: 856-486-2255

South Shore Regional Office
1325 Boardwalk, 1st Floor
Tennessee Avenue and Boardwalk
Atlantic City, NJ 08401
609-441-3100
Fax: 609-441-3578

DCR Housing Discrimination Toll-Free Hotline
1-866-405-3050

© 2020 Legal Services of New Jersey

You can find out more about the Division on Civil Rights, including information about filing a complaint, at the Division's website: ***www.nj.gov/oag/dcr/index.html***.

Both agencies handle complaints about the various forms of illegal discrimination described above. Only the state agency, the Division on Civil Rights, handles complaints about discrimination based on sexual orientation.

If you have a complaint against a real estate broker or agent, the New Jersey Real Estate Commission can investigate and punish any broker or agent whom they find to have discriminated against you. The Commission cannot award money damages or force the broker to rent to you. The Commission can be reached at:

New Jersey Real Estate Commission
240 West State Street
P.O. Box 471
Trenton, NJ 08625-0471
(609) 292-7272 / 1-800-446-7467
Main website: ***www.state.nj.us/dobi/division_rec/index.htm***
Complaint form: ***www.state.nj.us/dobi/consumer.htm#realestate***

You also can go directly to court without using these agencies and sue the landlord and/or broker who you believe has discriminated against you. This means, however, that you may need your own lawyer and will have to do your own investigation. If you succeed in court, you may be able to get money damages, the apartment that was wrongfully denied you, and attorney's fees.

If your complaint involves an owner-occupied two-family home, the Division on Civil Rights, HUD, and the Real Estate Commission won't be able to help you. Your only choice in such a case is to go to court.

Local fair housing groups

Some counties have fair housing organizations that can help you with your discrimination complaint. They can investigate your complaint for free and help you get the housing you want. They can also help you bring charges against the landlord and/or real estate broker, find you an attorney, or help you file a complaint with HUD or the Division on Civil Rights.

The following counties have organizations that may be able to help you with your fair housing complaint:

Bergen County
Fair Housing Council of Northern New Jersey
131 Main Street, Suite 140
Hackensack, NJ 07601

© 2020 Legal Services of New Jersey

(201) 489-3552
www.fairhousingnj.org

Middlesex County
Housing Coalition of Central Jersey
Puerto Rican Action Board
90 Jersey Avenue
New Brunswick, NJ 08901
(732) 249-9700
www.prab.org/programs/housing-services

Monmouth County
Monmouth County Fair Housing Board
1 East Main Street
Freehold, NJ 07728
(732) 431-7490
www.co.monmouth.nj.us/page.aspx?Id=3000

Morris County
Urban League of Morris County
Fair Housing and Assistance Program
300 Madison Avenue, Suite A
Morristown, NJ 07960-6116
(973) 539-2121
www.ulmcnj.org/housing

The need for legal help

Proving housing discrimination can be difficult and complicated. You may need help from one of the fair housing groups listed above. You will also need a lawyer. The fair housing groups may be able to refer you to a lawyer. You can also call your Legal Services program for their help or a referral to a private attorney specializing in housing discrimination cases.

© 2020 Legal Services of New Jersey

The New Jersey Legal Services Programs

State Coordinating Program

Legal Services of New Jersey
100 Metroplex Drive, Suite 402
P.O. Box 357
Edison, NJ 08818-1357
732-572-9100
www.LSNJ.org

LSNJLAW℠ statewide, toll-free legal hotline
1-888-LSNJ-LAW (1-888-576-5529)
www.LSNJLAW.org

Regional Legal Services Programs

Central Jersey Legal Services

Mercer County	609-695-6249
Middlesex County	732-249-7600
Union County	908-354-4340

Essex-Newark Legal Services 973-624-4500

Legal Services of Northwest Jersey

Hunterdon County	908-782-7979
Morris County	973-285-6911
Somerset County	908-231-0840
Sussex County	973-383-7400
Warren County	908-475-2010

Northeast New Jersey Legal Services

Bergen County	201-487-2166
Hudson County	201-792-6363
Passaic County	973-523-2900

South Jersey Legal Services

Centralized Intake for SJLS	800-496-4570
Atlantic County	609-348-4200
Burlington County	609-261-1088
Camden County	856-964-2010
Cape May County	609-465-3001
Cumberland County	856-691-0494
Gloucester County	856-848-5360
Monmouth County	732-414-6750
Ocean County	732-608-7794
Salem County	856-691-0494

© 2020 Legal Services of New Jersey