



Nebraska Tenants' Rights and updates to Nebraska Landlord- Tenant Law

Residential Landlord Tenant Act

Neb. Rev. Stat. §§ 76-1401 to 76-1449

- ▶ The Act details the obligations of the landlord and the tenant.
- ▶ The Act provides basic outlines about what the contract between a landlord and tenant can and cannot include.
- ▶ The Act provides defaults for when the landlord and tenant do not enter in to a written lease.

Residential Landlord Tenant Act

Neb. Rev. Stat. §§ 76-1401 to 76-1449

- ▶ Most landlord/tenant disputes are governed by this Act.
 - ▶ 7 Day Notice for Non-Payment
 - ▶ 5 Day Notice for Criminal Activity
 - ▶ 14/30 Day Notices (from or to Landlord)
 - ▶ Access to the Unit
 - ▶ Access to Essential Services
 - ▶ Waiver
 - ▶ Security Deposits

Landlord's Responsibilities

Neb. Rev. Stat. § 76-1419

- 1) Substantially comply with housing codes
- 2) Make all necessary repairs to put & keep the premises in a fit & habitable condition
- 3) Keep all common areas safe & clean
- 4) Maintain in good & safe working order & condition all electrical, plumbing, sanitary, heating, ventilating, air conditioning, & other facilities and appliances, including elevators, supplied or required to be supplied by landlord
- 5) Provide trash receptacles
- 6) Supply running water & reasonable amounts of hot water at all times and reasonable heat

Landlord's Responsibilities

What does that mean?

- ▶ Landlords have an obligation to make sure tenants live in dwellings that are
 1. Clean
 2. Safe
 3. Have working utilities and appliances

What if the landlord doesn't meet their obligations?

- ▶ When a landlord's non-compliance materially affects health & safety, tenants can deliver written notice to the landlord.
- ▶ This is called a 14/30 day notice
 - ▶ The tenant must articulate in writing the specific issues and that the rental agreement will terminate in 30 days if the landlord does not make the necessary repairs within 14 days.

What if the landlord doesn't meet their obligations?

- ▶ The tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or 76-1419.
- ▶ If the landlord's noncompliance is willful, the tenant may recover reasonable attorney's fees.

Running Water, Hot Water, Heat, & Essential Services

Neb. Rev. Stat. § 76-1427

- ▶ If the landlord deliberately or negligently fails to supply running water, hot water, or heat, or essential services, the tenant may give written notice to the landlord specifying the breach.
- ▶ The tenant may be able to:
 - ▶ Obtain these services and deduct their actual and reasonable costs from the rent.
 - ▶ Recover damages based on the decrease in fair rental value of the unit.
 - ▶ Procure reasonable substitute housing during the period of noncompliance, and be excused from paying rent for this period.
 - ▶ ******Tenants should seek the advice of an attorney before taking these steps.**

Tenant's Responsibilities

Neb. Rev. Stat. § 76-1421

- ▶ Tenants must maintain the unit by:
 1. Complying with obligations imposed on tenants by the municipal building & housing codes
 2. Keeping their part of the premises safe & clean as the condition of the premises permit
 3. Disposing of waste and garbage from the dwelling unit
 4. Keeping plumbing clean as its condition permits
 5. Using in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning & other facilities & appliances including elevators
 6. Not destroying or defacing the premises on purpose
 7. Behaving in a manner that does not disrupt others
 8. Abiding by any applicable neighborhood association rules

Tenant's Responsibilities

What does that mean?

- ▶ Tenants, just like landlords, have certain responsibilities.
- ▶ Tenants must
 1. Follow health & safety codes
 2. Keep their unit as clean and safe as the condition of the unit allows
 3. Use utilities and appliances properly and safely
 4. Not purposefully destroy the premises
 5. Follow rules of neighborhood association, condo association, or other governing entity of the dwelling unit

What if the tenant doesn't meet their obligations?

Neb. Rev. Stat. § 76-1431

- ▶ **7-Day Notice:** Failure to pay rent. You now have seven days to pay.
- ▶ **5-Day Notice:** If the tenant (occupant, member of tenant's household, guest, or other person who is under tenant's control or who is present with tenant's consent) engages in any violent criminal activity, illegal sale of drugs, or any other activity that threatens the health or safety of other tenants, the landlord, or the landlord's employees or agents on the premises.
- ▶ **14/30-Day Notice:** Breach of the rental agreement. This is similar to the 14/30 day notice for landlords. The landlord must detail the breach and explain that the lease will terminate if not remedied in 14 days.
 - ▶ Example: Pet on the property when not allowed in lease.

Access to the Dwelling Unit

Neb. Rev. Stat. § 76-1423

- ▶ Generally, a landlord must have consent to enter a unit.
- ▶ The tenant cannot unreasonably deny a landlord access to the unit.
 - ▶ Landlords should give tenants at least one day's notice of the intent to enter the unit & enter only at reasonable times.
 - ▶ If there is an emergency, the landlord can enter the unit without the consent of the tenant.

Waiver

Neb. Rev. Stat. § 76-1433

- ▶ Acceptance of rent with knowledge of a default by tenant or acceptance of performance by the tenant that varies from the terms of the rental agreement or rules or regulations subsequently adopted by the landlord constitutes a waiver of his right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

What if the lease expires?

- ▶ Most leases for rental units are one (1) year leases. At the end of the year, the lease transitions into a month-to-month lease.
- ▶ Either party can choose to end the month-to-month lease by providing the other party with written notice at least 30 days in advance.
 - ▶ Note: If a party gives notice not on the first/last day of a month, like on November 8, 2018, the tenancy ends on December 31. This is so each party has sufficient time.

What if the Rental Agreement is Terminated?

- ▶ The landlord is entitled to possession of the unit. If the tenant doesn't willingly vacate the unit, the landlord can pursue legal action in court.
- ▶ A landlord can't recover possession by purposeful diminution of services or by interrupting electric, gas, water, or other essential service. Basically, the landlord needs a court order and cannot force tenants out.

Judicial Eviction Process

- ▶ Complaint for Restitution: it must include
 - ▶ The facts, with particularity
 - ▶ Reasonably accurate description of the premises
 - ▶ Compliance with notice provisions of URLTA
- ▶ Summons: must be served within 3 days
 - ▶ Either personal services or constructive with an affidavit of first class mailing
 - ▶ The summons will have the date and time of the hearing
- ▶ Trial: shall be 10 - 14 days from the issuance of the summons

Trial

- ▶ On the day of trial, Defendant may appear and answer and assert any legal or equitable defense, setoff, or counterclaim.
- ▶ 76-1433 states no continuance shall be granted unless extraordinary cause is shown to the court.
- ▶ Writ: if restitution ordered, the writ will issue. The writ will be served on tenant within ten days of issuance.
- ▶ Appeal: an appeal may stay execution of any writ so long as defendant deposits judgment and costs - or surety bond - and then pays to the court the monthly rent called for at that time the complaint was filed.

Security Deposits

Neb. Rev. Stat. § 76-1416

- ▶ Security deposits cannot be greater than one month's periodic rent.
- ▶ Pet deposits cannot be in excess of $\frac{1}{4}$ of the one month's periodic rent.
- ▶ Landlords are not to use the security deposit, but rather set it aside & only use it after the tenancy has ended to apply to unpaid rent or damages done by tenant.

Return of Security Deposits

Neb. Rev. Stat. § 76-1416

- ▶ The burden used to be on tenant to send a written demand for the return of the deposit.
- ▶ Now the landlord has an obligation to return the deposit or provide a written itemization of damages within 14 days of the last date of the tenancy.
- ▶ If a landlord fails to comply, their prior tenant can sue to recover the money due and reasonable attorney's fees.

Disposition of Personal Property Landlord and Tenant Act

Neb. Rev. Stat. §§ 69-2301 to 69-2314

- ▶ Governs the landlord's obligations for property still on the premises after a tenancy has terminated or expired.
- ▶ Landlords have an obligation to give written notice prior to disposing of personal property remaining on the premises.
- ▶ Written notices should provide seven days if hand delivered, or fourteen days if mailed to last known address.
- ▶ If personal property is believed to be worth less than two thousand dollars, it may be kept, sold, or destroyed by the landlord.
- ▶ The landlord may require the tenant pay reasonable costs of storage before releasing the property to the tenant.

Mobile Home Landlord and Tenant Act

Neb. Rev. Stat. §§ 76-1450 to 76-14,111

- ▶ Governs the rental of mobile home lots.
- ▶ There are some differences with *residential* LLT Act that one should know before talking to a tenant or landlord of a mobile home park.
- ▶ Mobile Home LLT Act applies to owners of mobile homes on rented lots. If you rent the mobile home, the residential LLT ACT should apply.
- ▶ Forcible Entry and Detainer Statute is used for restitution actions in mobile home LLT cases.
- ▶ Notice provisions different. Tenant has five days to pay upon written notice to quit for nonpayment.

Advice for Tenants

- ▶ Before signing a lease, inspect the unit to make sure it is in good condition.
- ▶ Sign a move-in checklist
 - ▶ If the landlord later tries to charge the tenant for damages to the unit, the checklist is good evidence that the damages were there when tenant moved in.
 - ▶ If the landlord refuses to sign the checklist, the tenant should sign it, date it, mail it to the landlord, and keep a copy.

Advice for Tenants

- ▶ Tenants should try to get repairs made before they move in.
- ▶ Tenants should not give the landlord any money until she/he agrees in writing to make the repairs by a certain date.
- ▶ If a tenant wants to move in before the problems are fixed the tenant should:
 - ▶ Get an agreement in writing, signed by the landlord
 - ▶ Include the specific repairs to be made and when they will be done
 - ▶ The tenant should keep a copy of this agreement

Advice for Tenants

- ▶ Tenants should always get a receipt when they pay their rent.
- ▶ Tenants should retain a copy of their lease.
- ▶ Requests for repairs should always be made in writing.
- ▶ Requests for repairs need to detail what repairs are needed, be signed and dated. The tenant should retain a copy.
- ▶ Tenants should not withhold rent without consulting with an attorney.