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Landlord & Tenant Guide



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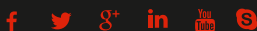
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Equality and Equity is not the same thing?

When resources are distributed equally – it still doesn't work for everyone. Why? It's because the equal distribution of resources does not address the individuals that have more than one barrier to housing. The Housing Equality & Equity Institute at LHOP works with local community organizations and government officials to address and encourage the distribution of resources that address individual barriers faced by residents of Lancaster county. It is evident that some individuals face multiple barriers to housing and may need more resources than others that may not have any barriers to housing.

Equality is what we all desire, and Equity is how we get there.

The Housing Equality & Equity Institute at LHOP and the Housing Equality Center of Pennsylvania have prepared this manual as a public service for tenants and landlords.

This manual is not intended as a substitute for proper legal advice.

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INTRODUCTION



It is our hope that this manual will help to guide you through a successful renting experience by providing general information and self-help resources regarding state and federal Fair Housing laws and Pennsylvania Landlord Tenant Law as it pertains to the rental of private residential property.

This manual covers two major types of regulations protecting the rights of tenants in Pennsylvania. The first, federal and state Fair Housing laws, protect tenants from being discriminated against or treated in an unfair or prejudicial way due to their membership in a category that is protected under these laws. A landlord refusing to rent to someone because of their race or ethnicity is an example of housing discrimination that is illegal under Fair Housing laws. The second type of protections for tenants are those covered under Landlord Tenant Law. Pennsylvania Landlord Tenant Law protects both tenants and landlords by establishing basic regulations for the rental of residential property. Rental issues such as repairs and maintenance and eviction procedures are governed by Landlord Tenant Law.

Public housing, subsidized housing, rooming houses, mobile homes, and commercial property may have different laws and requirements and are not discussed within the scope of this manual.

This manual is not intended as a substitute for proper legal advice.

The Housing Equality Center cannot be held responsible for errors, omissions, or changes to the law.

FAIR HOUSING

Fair Housing Laws

Title VIII of the Civil Rights Act of 1968, as amended, is known as **The Fair Housing Act**.

The Fair Housing Act is the federal law that makes it illegal to discriminate in any housing related transaction based on seven protected classes.

- Race
- Color
- National Origin
- Religion
- Sex
- Disability
- Familial Status (or the presence of minor children in a household, pregnant women, or anyone in the process of securing legal custody of a child)

The Pennsylvania Human Relations Act is the state law protecting consumers against housing discrimination and adds two additional protected classes.

- Age (over 40)
- Users, handlers, or trainers of assistance animals for persons with disabilities

Fair Housing laws make it illegal to discriminate against anyone based on a protected class in any of the following ways:

- Refusing to rent or sell housing
- Refusing to negotiate for the sale or rental of housing
- Making housing unavailable or denying that housing is available
- Setting different terms, conditions, or privileges for the sale or rental of housing, a mortgage loan, homeowner's or renter's insurance, or any other housing transaction
- Advertising in a discriminatory way
- Threatening or intimidating anyone exercising a fair housing right or assisting anyone else in exercising their fair housing rights

Types of Housing Covered by the Fair Housing Act

The Fair Housing Act and the Pennsylvania Human Relations Act cover all types of housing, including:

- Apartments
- Mobile Home Parks
- Condominiums
- Single Family Homes
- Public Housing
- Nursing Homes
- Dormitories
- Group Homes for People with Disabilities

Housing Exempt from Fair Housing Laws

The following types of housing do not have to comply with some portions of Fair Housing laws.

Buildings with two units where the owner lives in one of the units are exempt from the Pennsylvania Human Relations Act and **buildings with four units where the owner lives in one of the units** are exempt from the Fair Housing Act.

Housing run by religious organizations may limit occupancy to members as long as they do not discriminate based on race.

Housing for Older Persons (for people over the age of either 55 or 62) that meet certain requirements may refuse to rent to families with children.

There is **never** an exemption for discriminatory statements or discriminatory advertising.

Discriminatory Statements and Discriminatory Advertising

The Fair Housing Act makes it illegal to make or publish any statement or advertisement that states a preference or limitation based on a protected class. The following are examples of illegal advertising:

- “no kids”
- “perfect for single or couple”
- “Christian home”
- “Apartment not suitable for handicapped person”
- “Italian neighborhood”

Generally, a housing advertisement should describe the property being rented and not the desired renter.

Families with Children

Familial Status is a protected class under the Fair Housing Act. It is illegal to discriminate against individuals and families who have minor children in their household, pregnant women, or anyone securing legal custody of a child. Examples of illegal discrimination against families with children include:

- “No children” policies
- Refusing families due to the ages of their children (for example, not allowing children under the age of 7)
- Rejecting families based on the presence of lead based paint
- Segregating housing so that children are only allowed on certain floors or in certain buildings
- Refusing to rent to a family with children because of “unsafe conditions” or the apartment is “not suitable for children”
- Stating that parents and children or boys and girls cannot share a bedroom—these types of decisions are the parent’s choice to make
- Evicting a family or individual because of pregnancy or a child joining the family by birth, adoption, or legal custody
- Overly restrictive occupancy policies and per capita charges for each additional occupant may violate the Fair Housing Act in some circumstances



Victims of Domestic Violence

- It is illegal to discriminate against someone due to a history of experiencing domestic violence.
- Refusing to rent to someone because they have been a victim of domestic violence violates the Fair Housing Act.
- A zero tolerance policy for crime that is applied to **victims** of domestic violence violates the Fair Housing Act. (Example: A landlord has a zero tolerance policy for crime committed on the property. One of the tenants is a victim of domestic violence, and she calls the police when her abuser shows up at her apartment in violation of a protection from abuse order. The abuser is arrested. It would violate the Fair Housing Act for the landlord to evict the tenant because of the zero tolerance policy.)

Sexual Harassment

Sexual harassment is illegal under the Fair Housing Act. It is illegal for a housing provider to demand sexual favors in exchange for housing or for making repairs. Statements such as “Go out with me and I’ll reduce your rent” or “Go out with me and I’ll fix your roof” constitute unlawful sexual harassment under the Fair Housing Act. It is also unlawful for a housing provider to create or allow a hostile environment. Unwelcome offensive or sexual conduct, remarks of a sexual nature, or unwelcome touching by a landlord or a landlord’s employee, constitute a hostile environment and are unlawful.

Protections for LGBT Individuals

Neither the Fair Housing Act nor the Pennsylvania Human Relations Act include sexual orientation, gender expression, or gender identity as protected classes. However, some municipalities have passed ordinances prohibiting discrimination based on sexual orientation, gender expression, or gender identity. Check with your local government for more information.

In addition, the National Association of Realtors® Code of Ethics prohibits Realtors® from discriminating based on sexual orientation. HUD’s Equal Access Rule prohibits HUD funded housing programs from discriminating based on sexual orientation, gender identity or marital status.

National Origin, Immigration Status & Limited English Proficiency

Every person in the United States is protected by the Fair Housing Act. A person’s immigration status does not affect his or her fair housing rights. It is illegal to discriminate against someone because of his or her own or ancestral place of origin or because of their cultural or ethnic background or language. It is illegal to discriminate against someone who appears to be of a certain ethnic background, even if the individual is not.

Landlords are allowed to request immigration documentation and conduct inquiries to determine whether a potential renter meets the criteria for rental, as long as the same process is applied to **all** potential renters. Singling out only some individuals to prove their immigration status because of their national origin is a violation the Fair Housing Act (for example, asking only Mexican or Latino immigrants for proof of immigration status and not other applicants).

Additionally, it is illegal to discriminate against someone because of a limited proficiency in English. Statements such as “all tenants must speak English” or treating tenants differently because their English is not proficient violates the law. Programs that receive federal funds have an additional responsibility to provide interpreters and translators for individuals who are not proficient in English.



Persons with Disabilities

A disability is defined in the Fair Housing Act as a physical or mental impairment that substantially limits one or more of a person's "major life activities." Major life activities can include caring for one's self, walking, seeing, hearing, speaking, breathing, learning, and working. The definition of disability under the Fair Housing Act also includes people who have a history of an impairment and people who are perceived as having an impairment (even if they are not actually disabled).

Disabilities may include mental or emotional illness, difficulties associated with aging, HIV/AIDS, and those recovering from alcoholism or drug addiction (individuals who are currently using illegal drugs are **not** protected).

Reasonable Accommodations & Modifications for People with Disabilities

A **reasonable accommodation** is a change in rules, policies, practices, or services that enables a person with a disability an equal opportunity to use and enjoy a dwelling. A person with a disability must notify the housing provider if a reasonable accommodation is needed and the housing provider must grant the request if it is reasonable. There must be a connection between the disability and the need for the accommodation. Typically, accommodations will be a matter of negotiating what will serve both the housing provider and the disabled person best.

Examples of reasonable accommodations include:

- Assigning a person with a disability a reserved parking spot near their unit even though tenant parking is generally on a first come, first served basis
- Allowing a person with a disability to keep an assistance animal despite a "no pets" policy
- Allowing a disabled tenant who receives disability checks on the 5th of every month to pay rent after the 1st of the month without a late fee

A **reasonable modification** is a change in the physical structure of a dwelling that enables a person with a disability an equal opportunity to use and enjoy that dwelling. In many cases, individualized modifications to a dwelling enable persons with a disability to live in a space that they would otherwise be physically unable to live in. This includes the interior and exterior of a building or a unit, including public and common-use areas.

Examples of reasonable modifications include:

- Allowing a tenant who uses a wheelchair to install a ramp access to the entrance of the dwelling
- Allowing a tenant to install grab bars in the bathroom
- Allowing a tenant to install visual or tactile alert devices

Normally, the expense of reasonable modifications is the responsibility of the tenant unless the housing is federally subsidized (such as a Public Housing Authority). Federally funded housing projects may be required to pay for reasonable modifications requested by a disabled tenant.

Private housing providers can require that the tenant use a certified contractor to do the work and can require that the tenant restore the dwelling to its original condition upon moving out of the unit if the modification will interfere with the next tenant's use and enjoyment of the premises. For example, if a tenant has a ramp to the laundry room built in a multi-unit apartment complex, the ramp does not need to be removed because it is located in a common use area and may be beneficial to future tenants. However, if cabinets in a tenant's kitchen are moved lower to provide more mobility to a wheelchair user, the cabinets may have to be returned to their original height.

If restorations to the dwelling will be necessary when a tenant moves out, a housing provider may request payment by the tenant into an interest-bearing escrow account. Such payments may be made over a reasonable period and the amount must be reasonable and cannot exceed the cost of the restorations. The interest from the account accrues to the benefit of the tenant. Tenants needing to make extensive modifications to a rental unit, should consider negotiating a longer lease with the landlord.

When must a housing provider grant a reasonable accommodation or modification request?

A housing provider must grant a request for a reasonable accommodation or reasonable modification **if**:

- the person making the request fits the definition of a person with a disability,
- the person needs what they are requesting because of their disability, and
- the request is "reasonable".

A housing provider may not stall or delay in responding to a request for reasonable accommodation or reasonable modification.

What is Reasonable?

A request for an accommodation or modification is considered reasonable if that request:

- does not cause an undue financial and administrative burden to the housing provider,
- does not cause a basic change in the nature of the housing program available,
- will not cause harm or damage to others,
- is technologically possible.

Example 1: It would be unreasonable for a person with a disability to ask that their landlord assist them with their meals, unless the housing provider was already in the business of providing meal support (such as in an assisted living facility).

Example 2: If a person becomes disabled and can no longer access their 3rd floor apartment in a non-elevator building, it would be unreasonable (and probably architecturally impossible) to request the landlord allow the tenant to build an elevator. A more reasonable request would be to request a transfer to a first floor apartment. If that is not possible, the tenant could negotiate with the landlord for an early release from the lease.

If the accommodation or modification proposed by a tenant is unreasonable, the housing provider must engage in an interactive dialogue to determine if there is another solution that will meet the tenant's needs.

Tips for Writing Reasonable Accommodation or Modification Request Letters

It is the responsibility of the tenant (or a representative of the tenant) to request an accommodation or modification. A landlord cannot be expected to predict or anticipate an individual's needs. Although not required by the Fair Housing Act, it is recommended that requests for reasonable accommodations or modifications be made in writing for proper documentation and include proof that the tenant has a covered disability and the need for an accommodation or modification.

Your letter should:

1. state where you live and who is responsible for the building;
2. indicate that you qualify as a person with a disability as defined by the Fair Housing Act. It is not necessary to reveal the nature or severity of your disability;
3. describe the policy, rule, or architectural barrier that is problematic to you;
4. describe how this policy or barrier interferes with your needs, rights, or enjoyment of your housing;
5. in clear and concise language, describe the accommodation you are seeking for the policy, rule, or barrier;
6. cite the applicable law that protects your rights;
7. for accommodations use: Fair Housing Act Amendments Sec. 804 (42 U.S.C. 3604)(f)(3)(B);
8. for modifications use: Fair Housing Act Amendments, Sec. 804 (42 U.S.C. 3604)(f)(3)(A);
9. ask for a written response within a certain amount of time;
10. contain a signature and date of request, remembering to keep a copy of your request for your files.

See *Sample Letters; Reasonable Accommodation* and *Sample Letters; Reasonable Modification Requests*

SAMPLE LETTER

Reasonable Accommodation Request

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

I live at {enter address}. I (or a member of my household) am a person with a disability as defined by the Fair Housing Act. I am writing to request a reasonable accommodation under the federal Fair Housing Act.

POSSIBLE REQUEST 1:

I am requesting permission for an assistance animal to assist with daily living. I understand that our building's rules state a no-pet policy. However, I am requesting that you make a reasonable accommodation in the building's rules to permit an assistance animal in my apartment.

POSSIBLE REQUEST 2:

I am requesting a reserved parking space closest to my unit. I understand parking is on a first come, first serve basis, but due to my limited mobility, I am requesting a reserved parking space closest to my unit.

POSSIBLE REQUEST 3:

I am requesting to pay my rent on the 6th of the month without being assessed a late fee. I receive my disability checks on the 5th of the month.

According to the Fair Housing Act Amendments Sec. 804 (42 U.S.C. 3604) (f)(3)(B), (3) *For purposes of this subsection, discrimination includes-- (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. Denying a reasonable accommodation request for a person with a disability is a violation of the Fair Housing Act.*

You can refer to the Joint Statement from the U.S. Department of Housing and Urban Development and the Department of Justice detailing the obligations of housing providers under the Fair Housing Act to make reasonable accommodations for persons with disabilities. You can access this Joint Statement by visiting equalhousing.org and clicking on the Landlord Resource Center.

Please respond in writing to my request within ten days from the date of this letter. I look forward to your response and appreciate your attention to this critical matter.

Sincerely,

Your Signature

Print Your Name

SAMPLE LETTER

Reasonable Modification Request

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

I live at {enter address}. I (or a member of my household) am a person with a disability as defined by the Fair Housing Act. I am writing to request permission to make a reasonable modification under the federal Fair Housing Act.

POSSIBLE REQUEST 1:

I am requesting permission to install a ramp at the entrance to my apartment.

POSSIBLE REQUEST 2:

I am requesting permission to install grab bars in the bathroom.

POSSIBLE REQUEST 3:

I am requesting permission to install visual smoke detectors in my apartment.

According to the Fair Housing Act Amendments (42 U.S.C. 3604) (f)(3)(A), and Pennsylvania state fair housing law, housing providers must allow tenants to make reasonable modifications as necessary to afford a person with a disability full enjoyment of the premises. Denying a reasonable modification request for a person with a disability is a violation of the Federal Fair Housing Act.

You can refer to the Joint Statement from the U.S. Department of Housing and Urban Development and the Department of Justice detailing the obligations of housing providers under the Fair Housing Act to make reasonable accommodations for persons with disabilities. You can access this Joint Statement by visiting equalhousing.org and clicking on the Landlord Resource Center.

Please respond in writing to my request within ten days from the date of this letter. I look forward to your response and appreciate your attention to this critical matter.

Sincerely,

Your Signature

Print Your Name

Verifying Disability & Need

When can a Housing Provider Ask for Verification of a Disability and Need for a Reasonable Accommodation or Modification?

If the disability is obvious and need for the reasonable accommodation or modification is also obvious, the housing provider **cannot** ask for additional documentation (for example, a person with a visual impairment who uses a guide dog).

If the disability is obvious, but the need for the reasonable accommodation or modification is not clear, the housing provider is only allowed to request information to evaluate the disability related need (for example, a person with a visual impairment who has an emotional support cat).

If both the disability and the need are not clear, the housing provider may request documentation that a tenant has a disability and has a disability related need for the reasonable accommodation or modification (for example, a person with a mental health diagnosis or post-traumatic stress disorder who has an emotional support animal).

A housing provider **may not** ask:

- The nature or severity of a disability
- Questions that would require you to waive your rights to confidentiality regarding your medical condition or history
- To see your medical records



Assistance Animals

Assistance animals for people with disabilities are not pets. Assistance animals are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability—including providing support for mental or emotional disabilities. Emotional support animals alleviate one or more identified symptoms or effects of a person's disability. A housing provider may not deny occupancy or evict a person with a disability because an assistance animal is required.

Under the Fair Housing Act an assistance animal is not required to have formal training or certification, and a housing provider is not allowed to require proof that the animal has been certified, trained, or licensed as a service animal. Policies limiting the size, weight, or type of pets allowed do not apply to assistance animals. Pet fees and/or pet security deposits must be waived for assistance animals.

Accessibility & New Construction

Under the Fair Housing Act, single story units in new multifamily housing built for first occupancy after March 13, 1991 must be accessible if the buildings contain four or more units and if the units are either located on the first floor or are served by an elevator. To comply with the accessibility requirements of the Fair Housing Act, the housing must include the following features:

- An accessible building entrance on an accessible route
- Accessible public and common-use areas
- Doors that allow passage by a person in a wheelchair
- Accessible route into and through the dwelling unit
- Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
- Reinforcements in bathroom walls for later installation of grab bars
- Kitchens and bathrooms that allow a wheelchair user to maneuver about the space

What to Do If You Think You Have Experienced Housing Discrimination

If you believe you have experienced housing discrimination, it is important to maintain records and documentation with names, dates, and details regarding the incident to help prove your case. There are several options for pursuing a housing discrimination complaint against a landlord.

Fair housing complaints can be filed with the U.S. Department of Housing and Urban Development for up to one year from the incident or with the Pennsylvania Human Relations Commission for up to 180 days from the incident. In addition, a lawsuit can be filed in federal court for up to two years. If a landlord is found to have discriminated, the victims of that housing discrimination can be awarded out-of-pocket costs incurred while obtaining alternative housing and any additional costs associated with that housing. Non-economic damages for humiliation, mental anguish, or other psychological injuries may also be recovered.

If you live in the City of Philadelphia or in Bucks, Chester, Delaware, Lehigh, Montgomery, or Northampton Counties in Pennsylvania, you can call the Housing Equality Center

for counseling, investigation, and options for enforcement based on the circumstances of your case. Call us at 267-419-8918 or 866-540-FAIR (3247) or email info@equalhousing.org or visit equalhousing.org.

To file a complaint with the **U.S. Department of Housing and Urban Development**, call HUD's Housing Discrimination Hotline at 1-800-669-9777 or visit www.hud.gov.

To file a complaint with the **Pennsylvania Human Relations Commission**, call 215-560-2496 or visit www.phrc.pa.gov.

THINGS TO CONSIDER BEFORE RENTING

When looking for an apartment there are many factors to consider. Below are some of the most important things to think about and keep in mind as you begin your housing search and view available units.

Cost

Is the apartment affordable? Your rent and utilities should only amount to about 40% of your monthly income. Have there been rent increases in the past few years? How much? What is included in the rent? Find out who is responsible to pay for heat, gas, electric, hot water, water/sewer, recycling, and trash removal. Ask for a history of monthly utility expenses so you know what to expect.

Location

Is the residence convenient to your place of employment, school, childcare, public transportation, shopping, and medical care?

Security

Is the property and surrounding area well maintained and safe? Do doors, windows, and entrances to the building have secure working locks and are all usable for exit in the event of an emergency?

Health

Is there evidence of rodents or insects? If such a problem does arise, will the landlord pay for extermination? Is there flaking, peeling paint? Beware of lead poisoning from lead paint, especially if you have children.

Fire Safety/Smoke Detectors

Are the fire escapes easy to get to? Is there a fire extinguisher readily available? Are there smoke detectors? Are the smoke detectors operational? Who is responsible for their maintenance? Pennsylvania law requires that the landlord provide a working smoke alarm in each unit.

Neighbors

Is the apartment quiet? Can you hear your neighbors beside, above, or below you? Ask others in the apartment complex about the positive and negative aspects of living there.

Structural

Are the stairs safe and well lit? Are the windows eroding? Is wood cracked, rotting, water damaged, or termite infested? Does the landlord provide storm windows, screens, and shades? Are the floors solid and without holes, cracks, or splinters? Make sure no tiles or floorboards are missing. Are there any cracks or holes in the walls? Make sure there is no loose or falling plaster. Are the walls and ceilings painted or wallpapered and without cracks?

Utilities

Heat: Check the furnace or other source of heat. Make sure the heating source is accessible and working effectively. Check for drafts from windows and doors.

Water: There should be hot and cold running water. Check to see if water pressure is strong. Locate the turn-off valve.



Bernard Kleina

Sewer: Do toilets flush properly? Check for any drainage problems in sinks and tubs. Is the flooring around the tubs and toilets sound and solid?

Electricity: Are there enough electrical outlets? Is the wiring adequate to handle any appliance you may want to bring with you into the unit? Look for broken or frayed wiring or light fixtures hanging from a wire with no supports, as these are safety hazards. Locate fuse boxes and breakers.

Trash Removal: What is the policy for trash removal? Are there trash receptacles or dumpsters? Are they secure from rodents?

Heating, Ventilation & Air Conditioning

Do you have access to the air conditioning and heating temperature controls? Will you be able to control the heat, or will the landlord control the heat? Usually if heat is included in the rent, the landlord controls the heat.

Storage

Is there a storage area inside/outside the rental unit?

Furnishings & Appliances

What is included in the apartment? Ask if refrigerator, washer and dryer, drapes, blinds, carpet, or other furniture is included in the rental unit. Who is responsible to pay for those items if they need repair?

Laundry Room

Is it safe and secure? Is it clean and well lit? Is it open 24 hours or is access restricted to certain hours? Is it restricted to resident use only?

THE APPLICATION TO RENT

Questions a Landlord May Ask a Prospective Tenant

Housing providers may inquire into an applicant's ability to meet tenancy requirements. This means a landlord may ask whether you have sufficient income to be able to pay the rent, whether you are willing to comply with the building's rules, and other questions relating directly to tenancy. A housing provider may also adopt and apply uniform, objective, and nondiscriminatory criteria designed to evaluate a prospective tenant's credit worthiness, such as imposing credit or criminal background checks. Any questions asked by a housing provider must be asked to all applicants on an equal opportunity basis, without regard to race, color, religion, national origin, gender, familial status, or disability. Please refer to the section on Fair Housing Law for an explanation of unlawful housing discrimination. You cannot be rejected for an apartment because of your race, color, religion, national origin, sex, disability, because you have children, or because you are over the age of 40.

Financial Qualification Standards

Each landlord may have his or her own financial qualification standards. A formula used by many landlords to qualify a renter is:

Monthly net income x 40% = what a renter can afford to pay for rent and utilities combined

For example: \$1,500/month x .40 = \$600 per month for rent and utilities combined.

Other landlords may require that households make three times or four times the monthly rent in order to qualify for an apartment. If a prospective renter applies for an apartment and does not meet the income qualifications, this person is more likely to have difficulty paying the rent because other expenses such as car payments, child care, medical expenses, food, clothing, etc., must be covered.

The Rental Application

The property manager or landlord may ask a prospective renter to fill out a rental application. This application may request:

- Credit references and other credit background information
- A list of past landlords including telephone numbers and addresses
- An employment history, including salary information
- An application fee that may be non-refundable
- First month rent, plus a security deposit

Prospective tenants should always read the application carefully so that they are aware of the possible consequences should they decide not to take the rental unit.

If the landlord requires a security deposit at the time of application, ask if the deposit is non-refundable. Be sure to get a receipt for all monies paid.

Ask to read the proposed lease before signing the rental application since you may be binding yourself to the lease as it is without negotiation of its terms.

Rejection of an Applicant

There is a variety of lawful reasons that a landlord may deny a prospective rental applicant. In addition to not meeting the financial qualification standards, poor credit scores, bad landlord references, and/or prior judgments entered against the rental applicant by a court could all lead to rejection of your application. If a tenant or prospective applicant refuses to or is unable to comply with the rules that apply to all tenants, or if the individual would pose a direct physical threat to the health or safety of others, then the housing provider can reject that applicant.

Criminal Backgrounds

Can a landlord refuse to rent to someone with a criminal background?

Yes—but it depends on the circumstances. The U.S. Department of Housing and Urban Development (HUD) has issued guidance stating that because of the racial disparities in the criminal justice system, blanket bans (or refusing to rent to anyone with any type of criminal history, regardless of circumstances) would most likely have a greater impact on Black or Latino applicants, and as such, could violate the Fair Housing Act.

HUD's guidance states that housing providers need to consider the *nature* and *severity* of a crime and the *amount of time* that has passed to determine if the person would pose a direct threat to the health and safety of other residents. The guidance issued by HUD states that a mere arrest does not indicate guilt and a person should not be denied housing based on an arrest without a conviction. Furthermore, housing providers must apply criteria equally to **all** applicants and tenants, regardless of protected class. Using criminal background as a pretext for discrimination based on a protected class is illegal.

There is an exception to the HUD guidance on criminal backgrounds. If a person possesses a **conviction** for the manufacture and/or distribution of illegal controlled substances, they can legally be denied housing and the landlord is not in violation of the Fair Housing Act. Note: this exception does not include either arrests for drug charges that do not lead to conviction or convictions for possession only.

What If a Landlord Refuses to Accept a Housing Voucher or Social Security or Disability Income?

In Pennsylvania, source of income is not a protected class, meaning that a landlord can refuse to rent to individuals who hold a Housing Choice Voucher from the Housing Authority. Various localities within Pennsylvania have added source of income as a protected class. Contact your local government or municipality to find out if source of income is a protected class in your area and what recourse your community offers if you have been denied housing based on your source of income.

Social Security or Social Security Disability Income is verifiable income which is directly related to being a member of a protected class (age over 40 and/or disability). Refusal to approve an application because a prospective tenant is not employed could be unlawful discrimination if the prospective tenant has other verifiable income such as social security or disability that would financially qualify them to rent.

THE LEASE



Bernard Kleina

Understanding the Provisions of the Lease

A lease, either written or oral, is a contract which transfers possession and use of a rental property to a tenant for a specified time period.

The lease should define the respective rights and obligations of the landlord and the tenant. The Plain Language Consumer Contract Act requires that all residential leases be written, organized, and designed so that they are easy to read and understand. If a tenant has difficulty understanding a lease, he or she should ask for help or contact a local agency who can assist a tenant.

- Remember, a lease is a **legally binding contract**. You are legally responsible for all the provisions in a lease you have signed.
- Make sure you understand the terms of the lease **before** you sign it. By signing it, you agree to its terms and conditions for the duration of the lease agreement.
- Make sure that all blanks are crossed out or filled in before you sign anything.
- Make sure you get a copy of the **entire** lease. Do not accept the landlord saying he/she will give you a copy later.

You will want to make sure the following is included in your lease and that you understand the terms:

- the landlord's, street address, and telephone number for emergencies;
- your name and the name of others who are permitted to occupy the unit;
- address of the rental property.

- Amount of monthly rent—make sure you find out how, where, when, and to whom the rent is to be paid
- Rent due date
- Late fees—are they reasonable?
- Start and end date of the lease, is it a one year lease or a month to month lease—make sure you can commit to paying the rent for the entire rental period
- Requirements for notices to renew/terminate leases—how much notice does the landlord have to give you to move out and how much notice do you have to give the landlord when you want to move out? (Note that in PA, leases can waive or shorten the statutory notice period required before filing an eviction.)
- Does the lease renew on a yearly basis or does it revert to a month-to-month lease after the first year?
- Security deposit—make sure you understand what will be required of you when you move out of the rental unit so that you can receive your security deposit back
- Utilities—who is responsible for paying for each utility?
- Maintenance—what are the tenant's responsibilities for maintenance and who do you contact when repairs are needed?
- What appliances are included in the lease?
- Pet agreement and any pet security deposit (Remember, security deposits and pet fees may not be charged for assistance animals)

Rent Due Date

Most leases state that rent is due on the first of the month. You have an obligation to make sure that your rent is paid by the due date specified in the lease. Even if your landlord tells you it is okay if you are a few days late, you are still bound by the terms of the lease regarding late fees and other penalties.

Changes to the Lease

Any changes to the lease should not be made until the beginning of a new rental period, which is when you and your landlord renew the lease, unless both parties agree to a proposed change before the end of the lease term. Unless the lease specifies how changes are to be made, the landlord will be required to give one full rental period before the change is to take place.

Common Lease Provisions

- Tenants must keep the dwelling clean
- Tenants may be prohibited from subletting the dwelling without the landlord's consent
- Tenants may be prohibited from moving or breaking the lease without giving proper notice
- Landlords are permitted to enter the property at reasonable times for inspection, repair, or to show it to potential tenants, provided current tenants are given prior notice
- The name of person to contact and how to reach that individual for maintenance and repairs should also be included
- A list of regulations the tenant is expected to follow may be included in the lease

Unenforceable Lease Provisions

Tenants are usually bound by the terms and conditions of the lease they sign however, some terms and conditions are legally unenforceable in court.

Examples of unenforceable lease terms and conditions include:

- While tenants can be held liable for damages to an apartment, they cannot be made responsible for all normal maintenance and repairs, or all repairs under a certain dollar amount.
- The tenant cannot be made to accept the house or apartment “as is.” Under the Implied Warranty of Habitability, the facilities and services provided at the leased premises must allow the unit to be occupied for its reasonably intended purpose as a dwelling unit. (Please refer to the section on *Repairs and the Implied Warranty of Habitability*)
- The tenant cannot waive the right to represent himself/herself in a court of law.
- The tenant cannot be made to agree that if he/she breaks any promise in the lease, the landlord has the right to break into the apartment, change the locks, and seize the tenant’s possessions.
- The landlord cannot make the tenant agree to waive his or her rights to a hearing or confession of judgment.

REMEMBER: Read the lease carefully before signing it! **Get everything in writing!**

Avoid Falling for a Rental Scam

Some rental ads may not be legitimate. Scammers regularly advertise rentals that do not exist, that they do not own, or are not available. They also copy actual rental listings, change the contact and e-mail information, and place the altered ads in newspapers and websites to trick as many people as they can out of money.

You can avoid falling for rental listing scams by remembering these tips:

- Never wire money or send a check to someone you have never met for an apartment you have never seen. If you cannot meet the landlord in person because she is living or traveling out of the country, or if you cannot see the actual apartment before you pay application fees, a security deposit, or sign a lease, keep looking. Wiring money is the same as sending cash—once you send it, you cannot get it back.
- Do not be rushed into a decision. If you receive an e-mail pressuring you to make an on-the-spot decision for a rental, it could be a red flag. Ignore it and move on.
- The lower the price for a premium listing, the more likely it is a scam. Below-market rent for a spectacular apartment in a great location with a million-dollar view? Scammers love to attract people’s interest by making too-good-to-be-true promises.

BEFORE YOU MOVE IN



Bernard Kleina

Record Damages Before You Move In

It is wise to take note (with the landlord or property manager present) of any defects **before** you move in. When it is time to move out, those originally noted damages should not be charged against your security deposit since they occurred before you moved in. Written notes and photographs are very helpful so that there is no confusion later. Take photos to document the condition of the apartment and any existing damages. It is the tenant's right to have the condition of the dwelling in writing.

You may use the *Checklist for Inspection of Rental Unit* to record any damages in the apartment if you decide to move in. This list will aid you in the event that problems do arise with future repairs. The landlord is not obligated to sign your list, but you can request his or her signature and provide the landlord with a copy of your list. Make sure you date your notes.

If the rental unit is in need of repairs, it is in your best interest to establish **in writing** a date and time for the repairs to be completed. If the repairs are numerous and substantial, do not accept the apartment.

Check with the Local Housing Inspector

This is very important. You may be in the process of renting a house that is condemned or has a history of structural, electrical, or plumbing problems. Check with your local housing inspector before you move in to see if there are any current housing violations in the rental unit. Ask the housing inspector if there have been any complaints from former tenants against your future landlord for failing to make necessary repairs. Some municipalities require rental units to be licensed. Find out if the rental unit is licensed.

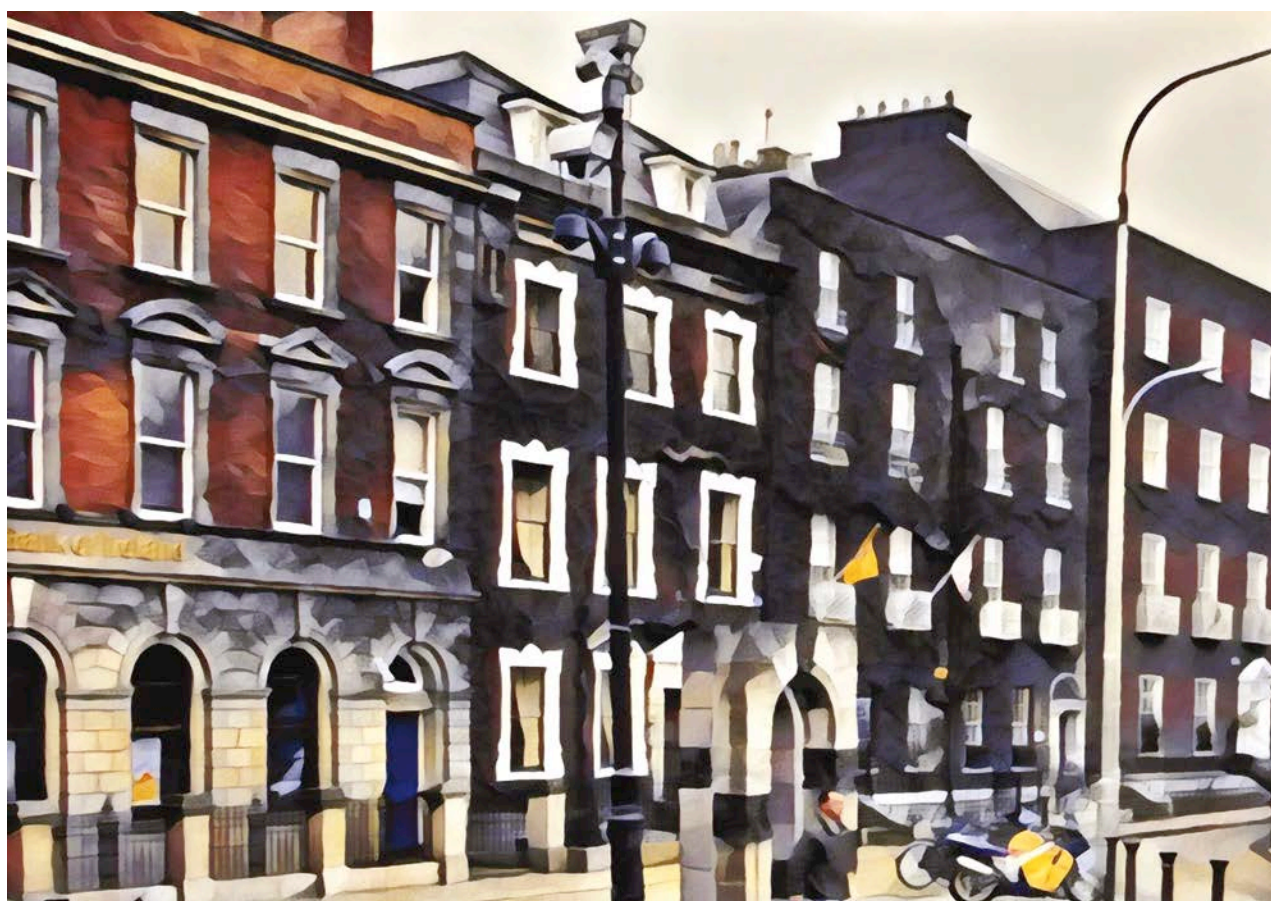
Lead Based Paint

Homes built before 1978 may have lead based paint, and homes built before 1950 are more likely to have it. The only way to know for sure if there is lead based paint is to have a certified inspector test for the presence of lead. When old paint cracks and peels, it makes lead dust. Children can get lead poisoning from swallowing flakes of paint or paint dust on their hands and toys. Children can also breathe in lead dust. Even small amounts of lead can cause very serious harm to the brain and other parts of the nervous system. Lead in a child's body can cause delayed growth and development, damage hearing and speech, and cause behavior problems and learning disabilities. There could be other sources of lead in older homes such as in the pipes or in the soil surrounding the house. The landlord is required to provide tenants with information about lead based paint in any property they are renting. An owner or landlord who fails to give proper information can be sued for triple the amount of damages. The owner may also be subject to civil and criminal penalties. Contact your municipality or city to see if your area has specific requirements regarding lead paint disclosure and remediation.

Smoke Detector/Carbon Monoxide Detectors

Pennsylvania law requires that the landlord provide working smoke detectors in each unit. The tenant cannot waive this requirement or disconnect the smoke detectors. The lease should state who is required to check the smoke detectors and change the batteries.

The Carbon Monoxide Alarm Standards Act requires that property owners install carbon monoxide detectors in all rental units that have fossil fuel burning heaters, appliances, fireplaces and/or attached garages. Tenants/occupants are required to replace batteries as needed and replace any device that is stolen, removed, missing or rendered inoperable during occupancy and to also notify the rental property owner or agent in writing of any deficiencies pertaining to the carbon monoxide detectors.



Stew Bradley

Checklist for Inspection of Rental Unit

Date of Inspection: _____

Address of Apartment: _____

Landlord's Name: _____

Landlord's Address: _____

Telephone Number: _____

Make sure all appliances and fixtures are in working order. Also, make notes on the presence of furniture, carpeting, and fixtures and the condition of everything in the rental property. Write down the location and number of marks, burn marks, or other damages. Take photos to document the condition of the property before you move in. Only check 'Yes' if you are certain an item is in good working condition or free from defects. If you are not sure, check 'Unsure.'

Building Exterior:

Checklist Item	Yes	No	Unsure	Comments
Are the foundation and exterior walls sound and free of hazards?				
Are all the exterior stairs, rails, and porches sound and free from hazards?				
Are the roof, gutters, and downspouts sound and free from hazards?				
Is the chimney sound and free from hazards?				
Are all exterior surfaces free of peeling or chipping paint?				
If the unit is a mobile home, is it properly placed and tied down?				

All Rooms:

Checklist Item	Yes	No	Unsure	Comments
Are there at least two working outlets or one working outlet and one working light fixture?				
Is the room free from electrical hazards?				
Can all windows and doors that are accessible from the outside be locked?				
Is there at least one window that opens, and are all windows in good condition with no missing or broken panes?				
Are the ceiling, walls, and floors sound and free from major cracks, holes, or hazardous defects?				
Are all interior surfaces free of peeling or chipping paint?				
Are there working smoke alarms or detectors?				

Bathroom:

Checklist Item	Yes	No	Unsure	Comments
Is there a working toilet in the unit for exclusive private use of the tenant?				
Is there a working tub or shower with hot and cold running water?				
Are there windows that open or a working vent system?				

Kitchen:

Checklist Item	Yes	No	Unsure	Comments
Is there a working oven, and is there a stove (or range) with top burners that is in working condition?				
Is there a refrigerator that works and maintains a temperature cold enough to keep food from spoiling?				
Is there a kitchen sink that works with hot and cold running water?				

Heat, Plumbing, and Electrical:

Checklist Item	Yes	No	Unsure	Comments
Is the heating equipment capable of providing adequate heat to all rooms used for living?				
Is the unit free from fuel-burning space heaters or other types of unsafe heating conditions?				
Does the unit have adequate ventilation?				
Is hot-water heat located, equipped, and installed in a safe manner?				
Is there a safe, sanitary public or private water supply?				
Is the plumbing free of leaks?				
Is the plumbing connected to an approved public or private disposal system, and is it free from sewer backup?				
Is the electrical system free of hazards (e.g., improper wiring, seriously inadequate service, etc.)?				

General Health and Safety:

Checklist Item	Yes	No	Unsure	Comments
Does the unit have at least one smoke detector or alarm in working condition on each level of the living area?				
Can the unit be entered without having to go through another unit?				
Is there an acceptable fire exit? Is it accessible?				
Is the unit free of rats, mice, roaches, etc.?				
Is the unit free of garbage or debris?				
Are the stairs and common halls free of hazards caused by loose steps, lack of handrails, poor lighting or other hazards?				
Is the site and immediate neighborhood free of dangerous conditions?				

Signature of Tenant: _____ Date: _____

Signature of Landlord: _____ Date: _____

NOTE: Landlord is not required to sign this checklist.

TENANTS' RIGHTS & RESPONSIBILITIES

Your Responsibilities as a Tenant

As a tenant, you are renting someone else's property. To create a responsible tenancy, you should comply with your lease along with the following list of duties:

1. **Pay rent when due,** not the day after or 5 days after. If the rent is due on the 1st of the month, pay it on the 1st of the month. As a tenant, you are legally responsible to pay the full amount of rent on time in accordance with your lease agreement. If you do not pay your rent on time, your landlord can file an eviction action against you. It does not matter if you are disabled or lost your job, have a sick family member, have children, or if it is during the winter months—you can still be evicted. If you believe you will not be able to pay your rent in full and on time, you should tell your landlord as soon as possible. Do not wait until the rent is due or after the due date. Your landlord will assume the worst if they do not receive a rent check from you. Explain why you cannot pay and ask to make a payment arrangement. If your landlord agrees to a payment agreement, get it in writing and keep a copy. If you do not abide by the agreement, the landlord will be able to evict you.
2. **Get a receipt. Save receipts for all payments to your landlord.** Pay your rent by check, if possible, because your canceled check gives you a record that you have paid your rent. If your landlord does not accept personal checks and you pay rent by cash or money order, obtain a record of your payment. Insist that your landlord give you a receipt for each rental payment that you make and save all receipts.
3. If you are responsible for any utilities, they must be paid on time. If not, this could result in an eviction.
4. Comply with all terms and conditions of the lease.
5. Comply with rules and regulations included in the lease or separately signed addendum(s).
6. Comply with the requirements of Pennsylvania law, local ordinances, and housing codes.
7. Refrain from disturbing the peace of other tenants and neighbors.
8. Refrain from damaging the premises. Be sure no one living with or visiting you damages the property, as you may be financially responsible for those damages.
9. Notify the landlord of any serious defects (or needed repairs) in the dwelling that may cause the building to deteriorate. Be sure to follow the notice provisions outlined in your lease. If your lease does not provide specific notice instructions, put your request for repairs in writing and make sure you keep a copy for your records!
10. Be financially responsible for any damages resulting from actions or negligence (other than normal wear and tear) that you or your family have caused.
11. Keep the premises clean.
12. Allow the landlord, landlord's representatives, or local government inspector reasonable access for inspection and repairs.
13. Do not allow persons who are not on the lease to live in the rental unit.
14. Do not engage or allow anyone to engage in criminal activity, including illegal drugs or allowing underage drinking on the premises. Any of these items could result in eviction.
15. If you change your locks, make sure you get permission from your landlord first and then give him/her copies of the keys. The landlord is legally allowed to have a full set of keys for any locks you install.

Renters Insurance

Most landlords carry property insurance which covers property damage but not your possessions. Renters insurance (which is optional, but some landlords may require) can be purchased to cover your furniture and other personal possessions. The cost of renters insurance is roughly about \$175- \$200 per year, which averages to about fifty cents per day. Renters insurance can generally be obtained from any insurance company that sells homeowners insurance.

Neighborhood Relations

Introduce yourself to your neighbors and become part of the neighborhood. Maintain a friendly relationship with them. Neighbors can help one another in many ways, such as keeping an eye out for illegal activity.

One of the ways to end up with poor neighborhood relations is to disturb your neighbors with loud noise. If you plan to have a party, keep it under control and end the party at a decent hour. It is also a good idea to let your neighbors know when you plan such a gathering and try to cooperate with them during special circumstances, such as when your neighbor has an illness. You may want to modify or change your plans so that their special request can be met. They are more likely to cooperate with you if you cooperate with them.

Neighborliness also means good upkeep and maintenance of the exterior of the building. This means that the lawn and shrubs should be well maintained and that trash should not be left outside. In apartment buildings it is important to respect all common areas—hallways, stairs, or grounds. Do not leave trash in these areas or obstruct the entrance to the building. It is also a good idea not to play or create excessive noise in public halls and stairs for safety reasons as well as in consideration of your neighbors.

To be a good neighbor, you must try to see that your guests do not disturb your neighbors. It is not always possible to control everything your guests do, but you have the right to expect them to behave in a way that will not antagonize others.

If a tenant or a tenant's guests harasses or threatens to harm others in the building or neighborhood, the landlord may have a responsibility under Fair Housing laws or municipal ordinances to evict the tenant in order to protect the safety of the neighbors and/or other tenants.

Problems with Other Tenants

If you are experiencing problems with other tenants, report the problem to the landlord. Under the Fair Housing Act, if a tenant harasses another tenant based on race, national origin, disability, or other protected class, a landlord is required by law to address the issue and prevent the harassment from continuing. If you feel threatened by another person, call the police. Follow up with a written report to your landlord. Keep a copy for yourself. Explain the problem and ask the landlord to address the problem. It is usually best to keep the letter clear and concise and stick to the facts. Follow up if the problem persists. Keep copies of all correspondence.

You are bound to the terms of the lease, so if you break your lease and move out, you can still be held liable for rent for the remainder of the lease term. If the landlord takes action against you in court, you will need to demonstrate that the landlord was violating the terms of the lease by failing to enforce your right to quiet enjoyment of the property or neglecting to prevent discriminatory harassment. You will want to be able to present evidence that you did everything you could to notify the landlord of the problem and asked him/her to resolve the problem before you moved out.

Guests

You have the right to invite social guests for reasonable periods of time and to have business visitors in your rental unit without the interference of the landlord. Guests must comply with all rules regarding common areas that apply to tenants.

Allowing Others to Move In

Your lease will specify who is allowed to occupy the rental property with you. If you want to have someone move in with you or stay for an extended period of time, you will need to ask the landlord's permission. The landlord might want to perform background checks on the new tenant, raise the rent, or require that the individual be added to the lease. Make sure that any agreement allowing others to move in with you is in writing.

Tenants' Right to Privacy

Pennsylvania Law states that in every lease (whether written or verbal), there is a promise that the landlord will not unreasonably interfere with the tenant's right to possess the leased premises. This **Covenant of Quiet Enjoyment**, also includes the right to privacy. The rent paid not only gives the tenant a roof over your head, but also ensures the right to enjoy the premises without reasonable and excessive intrusions by the landlord.

Landlords only have the right to reasonable access to the leased premises. If the landlord enters the rental unit for no reason or disturbs the tenant at night, he or she may be breaching the lease. The landlord does have the right to enter rental premises occasionally for reasonable purposes including inspection and maintenance, repairs, or to show the property to potential buyers or renters. Reasonable also means that the landlord should come at a reasonable time, give the tenant advance notice first, and should knock first—unless there is an emergency. If there is an emergency such as broken water pipes or smoke detectors activated, then the landlord has the right to enter immediately without prior notice.

If the lease states that the landlord may enter without notice during reasonable hours, the tenant may have no right to require advance notice. However, if the landlord or the landlord's employees repeatedly enter without notice, the tenant should send the landlord a letter requesting a minimum of 24 hours advance notice prior to entry in a non-emergency situation, keeping a copy of the letter and sending the original by certified mail, "return receipt requested". Although the landlord is not obligated to comply with the request for the advance notice, common courtesy would encourage the landlord to give the tenant notice prior to entering the rental unit. If the landlord does not adhere to the general standards as outlined above and repeatedly enters the rental unit without notice, the landlord may be cited for trespassing. Call the local police department for more information.

Landlord and Tenant Act Of 1951

Disposition Of Abandoned Personal Property

Act of Oct. 22, 2014, P.L. 2620, No. 167 Cl. 68

Session of 2014

No. 2014-167

HB 1714

AN ACT

Amending the act of April 6, 1951 (P.L.69, No.20), entitled "An act relating to the rights, obligations and liabilities of landlord and tenant and of parties dealing with them and amending, revising, changing and consolidating the law relating thereto," further providing for disposition of abandoned personal property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 505.1 of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, added July 5, 2012 (P.L.1091, No.129), is amended to read:

Section 505.1. Disposition of Abandoned Personal Property.-- (a) [At the time a tenant has relinquished possession of the real property, the tenant shall remove from the premises all items of the tenant's personal property. For the purposes of this section, a tenant shall be deemed to have relinquished possession of the premises upon any of the following:

1. Execution of an order of possession in favor of the landlord.
2. If the tenant has physically vacated the premises, removal of substantially all personal property and the providing of a forwarding address or written notice stating that the tenant has vacated the premises.

(b) Upon relinquishment of the premises under subsection (a) and the acceptance of possession of the real property by the landlord, the tenant shall have ten days to contact the landlord regarding the tenant's intent to remove any personal property remaining on the premises. If the intent is conveyed to the landlord, the personal property shall be retained by the landlord at a site of the landlord's choosing for thirty days. If no communication is made to the landlord within ten days, the property may be disposed of at the end of the ten days at the discretion of the landlord.

(c) If personal property remains on the premises following the relinquishment of the premises by the tenant, the following shall apply:

1. If there is acceptance of the real property by the landlord under subsection (a)(1) and the writ or order of possession contained notice of the provisions under subsection (b), the landlord shall not be required to provide further notice to the tenant.
2. If there is acceptance of the real property by the landlord under subsection (a)(2) and the lease or lease addendum contains notice of the provisions under subsection (b), the landlord shall be required to provide written notice to the tenant that personal property remains on the premises and must be retrieved by the tenant. The notice under this paragraph shall give the tenant ten days from the date of postmark of the notice to notify the landlord that the tenant will be retrieving the personal property. If the intent is conveyed to the landlord, the personal property shall be retained by the landlord at a site of the landlord's choosing for thirty days from the date of postmark of the notice. If no communication is made to the landlord within ten days, the property may be disposed of at the end of the ten days at the discretion of the landlord. The

notice shall also include a telephone number and address where the landlord can be contacted and shall identify the location where such property can be retrieved. The notice shall be:

(i) sent by regular mail to the tenant's forwarding address, if provided, or, if no forwarding address is provided, then to the formerly leased premises; or

(ii) by personal delivery to the tenant.

3. If the lease or lease addendum does not contain notice of the provisions under subsection (b), the landlord, in addition to complying with the requirements of paragraph (2), shall send notice to any emergency contact that may have been provided by the tenant in a lease agreement.

4. Any notice required under this subsection shall also contain information that the tenant shall be required to pay costs related to the removal or storage of property retrieved by the tenant after ten days under subsection (f).

(d) At all times between the acceptance of the premises by the landlord and the expiration of the ten- or thirty-day periods, the landlord shall exercise ordinary care with regard to any personal property that the former tenant has left in or on the real property.

(e) After the appropriate time period under subsection (d) has expired, the landlord shall have no further responsibility to the former tenant with regard to the personal property and may, in the landlord's discretion, dispose of the property. If the personal property is sold and proceeds exceed any outstanding obligations owed to the landlord, the proceeds shall be forwarded to the tenant by certified mail. If no forwarding address has been provided to the landlord by the former tenant, the landlord shall hold the proceeds for thirty days and, if unclaimed, may retain the proceeds.

(f) If the landlord has issued the notice to the tenant under subsection (c), the landlord may choose to store the tenant's personal property at another location within reasonable proximity to the leased premises. If the landlord elects to have the property stored at another location, the landlord may remove the property from the premises by any means reasonably calculated to safeguard the property for the time period required under this section. A tenant shall not be required to pay any costs related to the removal or storage of the property by the landlord if the former tenant retrieves the personal property within ten days of the date of postmark of the notice. If the former tenant retrieves the personal property after ten days of the date of the postmark of notice but before thirty days, the tenant shall be required to pay any reasonable and actual costs related to the removal or storage of the property by the landlord for that time period.] Upon the termination of a lease or relinquishment of possession of real property, a tenant shall remove all personal property from the leased or formerly leased premises. Abandoned personal property remaining on the premises may be disposed of at the discretion of the landlord, subject to the provisions of this section.

(b) Personal property remaining on the premises may be deemed abandoned if any of the following apply:

1. The tenant has vacated the unit following the termination of a written lease.
2. An eviction order or order for possession in favor of the landlord has been entered and the tenant has vacated the unit and removed substantially all personal property.
3. An eviction order or order for possession in favor of the landlord has been executed.
4. The tenant has provided the landlord with written notice of a forwarding address and has vacated the unit and removed substantially all personal property.

5. The tenant has vacated the unit without communicating an intent to return, the rent is more than fifteen days past due and, subsequent to those events, the landlord has posted notice of the tenant's rights regarding the property.

(c) Where the tenant is deceased and leaves personal property remaining in the demised premises, the provisions of this act shall not apply. The disposition of personal property in the case of a decedent shall be governed by the provisions of 20 Pa.C.S. §§ 711(1) (relating to mandatory exercise of jurisdiction through orphans' court division in general) and 3392 (relating to classification and order of payment) and other relevant provisions of 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

(d) Prior to removing or disposing of abandoned property, the landlord must provide written notice of the tenant's rights regarding the property. The tenant shall have ten days from the postmark date of the notice to retrieve the property or to request that the property be stored for an additional period not exceeding thirty days from the date of the notice. If the tenant so requests, the landlord must retain or store the property for up to thirty days from the date of the notice. Storage will be provided at a place of the landlord's choosing and the tenant shall be responsible for costs. At all times, the landlord shall exercise ordinary care in handling and securing the tenant's property and shall make the property reasonably available for purposes of retrieval.

(e) Notice shall be sent by first class mail to the tenant at the address of the leased premises and to any forwarding address provided by the tenant, including any address provided for emergency purposes. The notice shall be in substantially the following form:

Personal property remaining at (address) is now considered to have been abandoned. Within ten days of the postmark date of this notice, you must retrieve any items you wish to keep or contact your landlord at (telephone number and address) to request that the property be retained or stored. If requested, storage will be provided for up to thirty days from the postmark date of this notice at a place of your landlord's choosing, and you will be responsible for costs of storage.

(f) Under no circumstances may a landlord dispose of or otherwise exercise control over personal property remaining upon inhabited premises without the express permission of the tenant. If the conditions under which personal property may be deemed abandoned no longer exist, the landlord shall have no right to dispose of or otherwise exercise control over the property.

(g) Except with respect to the provisions of subsection (h), in the event of a conflict between the provisions of this section and the terms of a written lease, the terms of the lease shall control.

(h) Notwithstanding any provision of this section to the contrary, if a landlord proceeding under the provisions of subsection (b)(3) has actual knowledge or is notified of a protection from abuse order entered for the protection of the tenant or a member of the tenant's immediate family, the landlord shall refrain from disposing of or otherwise exercising control over the personal property of the tenant for thirty days from the date of the notice. If requested, storage shall be provided for up to thirty days from the date of the request.

(i) A landlord that violates the provisions of this section shall be subject to treble damages, reasonable attorney fees and court costs.

Section 2. This act shall take effect in 60 days.

APPROVED--The 22nd day of October, A.D. 2014.

TOM CORBETT



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REPAIRS & THE IMPLIED WARRANTY OF HABITABILITY

The Right to a Decent Place to Live

The Pennsylvania Supreme Court has ensured that tenants have the right to a decent place to live. This guarantee to decent rental housing is called the **Implied Warranty of Habitability**.

The Warranty means that in every residential lease in Pennsylvania (whether oral or written) there is a promise (the Warranty) that a landlord will provide a home that is safe, sanitary, and healthful. A rental home must be fit to live in, and the landlord must keep it that way throughout the rental period by making necessary repairs. Even if the renter signs a lease to take the dwelling “as is”, the Warranty protects the individual. **The right to a livable home cannot be waived in the lease.** Remember, the Warranty is in the lease, whether or not the lease says so. Any lease clause attempting to waive this Warranty is unenforceable.

The Warranty does not require the landlord to make cosmetic repairs. For example, the landlord is not required to repair faded paint, install new carpeting, or make other cosmetic upgrades or improvements. **However, the landlord must remedy serious defects affecting the safety or the ability to live in the rental unit.**

The following are examples of defects covered by the Implied Warranty of Habitability:

- Lack of hot and/or cold running water
- Defunct sewage system
- No ability to secure the leased premises with locks (doors, windows)
- Lack of adequate heat in winter
- Insect or rodent infestation
- Leaking roof
- Unsafe floors, stairs, porches, and handrails
- Inadequate electrical wiring (fire hazard) or lack of electricity
- Inability to store food safely because of broken refrigeration unit (when the landlord is responsible for maintenance and repair of refrigerator)
- Unsafe structural component that makes it dangerous to occupy the premise

What Is Adequate Heat?

“Adequate heat” depends on your local property maintenance codes. You will need to check with your local municipality to see what the requirements are for adequate heat in a rental unit in your community. Many municipalities have adopted the International Property Maintenance Code as a standard for property maintenance. This code generally requires landlords to provide a heating system that is able to maintain a minimum temperature of 68°F (20°C) during the winter months. In Philadelphia, landlords are required to maintain a system to provide heat at 68 degrees minimum from October through April. If the tenant has control of their own heat via a thermostat, the landlord is not required to keep the heat at 68 degrees minimum—that is left to the tenant’s discretion. Check with your local code enforcement department for the minimum heating requirements in your area.

What Do You Do If Your Unit Is Not Habitable?

If the problem is serious enough to constitute a breach of the **Implied Warranty of Habitability**, you may be entitled to seek one or more remedies. Take the following steps to establish and protect your rights:

- You must determine that the defect interferes with the habitability of your rental unit (your ability to live in the dwelling is seriously impaired).
- Once you determine that the defect interferes with your habitability, take pictures of the problem. If you are required to appear in court, pictures will be advantageous to have.
- **You must notify the landlord of the problem. If there are provisions in your lease describing how to notify the landlord about defects, make sure to strictly follow those notice procedures.** If you speak to him or her, make sure you follow up in writing and keep a copy of the letter for yourself. For tenants, it is always good practice to notify the landlord of any defects in writing. This provides the evidence you need to show the landlord was notified of the defective conditions. (See “**Sample Letters to Landlords**”)
- You must allow the landlord **reasonable time** to repair the defective condition. How much time is reasonable time? There is no universal answer. The reasonableness will be determined by the nature of the defect and whether or not the ability to correct the defect is within the landlord’s immediate control. A reasonable time to fix a damaged roof might be measured in weeks; but lack of heat in the winter months must be remedied within a day or two at most.
- **You must be able to show that the landlord was either unwilling or unable to repair the property within a reasonable amount of time after being given notice of the defect before using a remedy to address the problem.**
- If you decide to pursue a remedy or a combination of remedies, you will need to proceed cautiously and be well prepared because your landlord may take steps to collect rent or even try to evict you. **Proper legal advice is invaluable.** Pennsylvania law prevents your landlord from evicting you in retaliation because you exercised your rights properly under the warranty of habitability. You can be evicted if a court finds that you exercised a remedy improperly and breached your lease as a result.

Tenant Remedies for a Breach of the Implied Warranty of Habitability

There are a few legal remedies for a breach of the Implied Warranty of Habitability that can be used alone or in combination:

1. **Terminate your lease and move out**
2. **Withhold all or part of the rent**
3. **Repair and deduct**
4. **File a legal action to seek compensation**

BEFORE PROCEEDING WITH ANY REMEDY, KEEP IN MIND THE FOLLOWING:

- Each of these remedies has a risk associated with it. Any of them could cause your landlord to try to evict you. If your landlord is not providing a habitable rental unit, he cannot evict you in retaliation for properly using one of these remedies. But he can still evict you for non-payment of rent if you withheld rent improperly or have violated the lease in other ways.
- Before using any of these remedies, you may want to contact an attorney or a tenant's rights organization for legal advice relevant to your situation. Make sure you have taken the correct steps to establish and protect your rights. There are limitations that apply to these remedies and proceedings. Any of these remedies can be complicated, and each individual circumstance is different. Proper legal advice is invaluable.
- Make sure you can prove that the problem exists. Testimony in court from friends and relatives is acceptable, but photographs that clearly show the defect you want to point out are better and a letter or notice from code enforcement is ideal.
- Always think ahead and be prepared in case the landlord ends up taking you to court. You will need to have documentation of the defects that made your apartment uninhabitable—photos, code inspection case reports, proof that you gave the landlord notice of the defects in writing, and proof that you gave the landlord a reasonable time to make the repairs, proof that the repairs were not made, and therefore that you were legally entitled to utilize one of these remedies.

Remedy #1: Terminate your lease and avoid any further duty to pay rent.

The tenant has the right to terminate the lease and move out of the premises if the tenant has given notice of the premise's defects to the landlord and after a reasonable amount of time, the landlord was unwilling or unable to make the repairs.

If you decide to use this remedy, you **must** move out of the leased premises. You cannot terminate the lease and remain in the property. You could lose your security deposit or be sued for non-payment of rent if you do not vacate the property. All move out procedures must be followed including surrendering all keys to the landlord.

Remedy #2: Withhold all or part of the rent until the defect is remedied.

Under Pennsylvania Law, you may withhold rent if you can prove the dwelling unit is not habitable and have taken the proper steps of informing the landlord of the problem and giving the landlord a reasonable amount of time to fix the defect that caused the rental unit to be uninhabitable. As long as

there is evidence that the dwelling unit is not habitable, you should have a defense if the landlord files any legal proceeding for non-payment of rent.

- Make sure you have given your landlord written notice that the problem exists.
- Make sure you have allowed a reasonable time for repair and can prove that your landlord has failed to make the repairs you requested.
- Consult an attorney if you are unsure of how to proceed, have concerns about proving a violation of the implied warranty, or need additional information.

How much rent can you withhold?

There is no exact formula to determine how much of your rent you can legally withhold. One way to calculate this amount is to figure out how much of your home you could not use and for how long.

Example 1: If you have a five-room apartment and you could not use one of the rooms for an entire month due to a roof leak, you might deduct 1/5 (one-fifth) or 20% of your rent for the loss of 1/5 (one-fifth) of the apartment.

Example 2: If you had no heat and were forced to stay with a friend or at a hotel for a week, you might deduct 1/4 (one-fourth) or 25% of your rent for the loss of the use of your entire home for one week out of four.

Placing Withheld Rent in an Escrow Account

While the law does not require that you put your withheld rent into a bank or escrow account, it is a very good idea to do so. If you cannot open a separate bank account, make sure that you can document that you have the rent money set aside. This might give you some protection if your landlord takes you to court for non-payment of rent. Judges often ask tenants if they have escrowed the withheld rent money. By saving the money in a bank account, you will show the Judge that you were not trying to live rent-free.

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Remedy #3. Repair defects and deduct the cost of repairs from your monthly rent.

This remedy permits the tenant to repair the defect or correct the conditions that cause the rental property to be uninhabitable. The tenant may then deduct the cost of repairs from the rent. The amount of the cost of repairs that can be deducted from the rent is limited.

- The amount must be **reasonable** and **necessary** to make the dwelling unit habitable.
- You are not permitted to deduct for the expenses that make the dwelling unit more desirable. Only costs incurred to make the premises safe and compliant with the warranty of habitability are deductible.
- Before proceeding, give your landlord notice in writing that you intend to exercise this remedy and submit cost estimates.
- You must wait a reasonable amount of time before proceeding.
- You will need to notify your landlord again when the work is completed.
- This option may be good for you if your problem is something specific that a repair person can fix and the cost of the repairs will be less than what you pay for one month's rent.
- Make sure that you keep all receipts of any costs incurred and provide them to the landlord.

Remedy #4: File legal action to recover cost of repairs, a retroactive rent rebate, and/or compensation for any other damages suffered while the dwelling unit was not habitable.

This may be a good option for you if you have already spent some of your own money on repairs or if you are moving out and think you deserve a retroactive rent reduction because the home had serious issues of habitability.

- You can take this legal action if you are still living in the home or if you are moving out.
- The burden is on the tenant to prove that the Implied Warranty of Habitability prerequisites were followed and that expenses or other losses have been incurred due to the landlord's breach of the Implied Warranty of Habitability.

Who Is Responsible for Extermination?

The Implied Warranty of Habitability requires a landlord to provide safe and sanitary conditions for tenants. An apartment or house infected with bed bugs, cockroaches, fleas, mice or other vermin is not in a safe and sanitary condition. If your landlord refuses to hire an exterminator, you could contact your local Code Enforcement department. A code officer should come out to the property to inspect and issue a citation to the landlord if an infestation exists. If your landlord refuses to exterminate, you may be able to exercise legal remedies to deal with the infestation yourself. See *Tenant Remedies for a Breach of the Implied Warranty of Habitability*.

Repairs Not Covered Under the Implied Warranty of Habitability

Cosmetic repairs such as repainting, replacing carpet, updating tiles, and installing upgraded cabinetry are not included in the Implied Warranty of Habitability. Always check your lease. If your lease does not address repainting the apartment and if you alter the condition of the property by repainting, then generally, the landlord is **not** responsible for reimbursing you for costs, but the landlord can require you to return the property to its original condition when you move out. Get your landlord's permission (preferably in writing) before you repaint or make any changes to the property to avoid problems.

SAMPLE LETTER

Serious Problems Affecting Habitability

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

I am writing to you regarding repairs that are needed to the apartment/house (choose one) located at {enter address} that I am renting from you. The specific problem(s) that must be repaired are:

Make a list: (Examples are listed below)

No hot water

Plumbing problem (be specific)

No heat

Ceiling cracking, etc.

I believe that these defects are a breach of our lease agreement and a violation of the Implied Warranty of Habitability.

I would appreciate it if you would make these repairs as soon as possible. If these conditions are not corrected within a reasonable period of time, I intend to exercise my legal right to reduce the rent, make the repairs myself and deduct the expense from the rent, or withhold my rental payment(s), etc. (pick one)

I would appreciate your prompt attention to this matter.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

SAMPLE LETTER

Confirming Repairs Needed

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

This letter is to confirm our {telephone} conversation on {date} in which I informed you that the following repairs are needed in my apartment/house (choose one) located at {address}.

The specific problem(s) that must be repaired are:

Make a list: (Examples are listed below)

No hot water

Plumbing problem (be specific)

No heat

Ceiling cracking etc.

You promised the repairs would be completed by {enter date agreed}. Thank you for your cooperation in this matter.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

SAMPLE LETTER

Repair and Deduct

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

I am writing regarding repairs that are needed to the apartment/house (*choose one*) located at {enter address} that I am renting from you.

The specific problems that must be repaired are:

Make a list: (*Examples are listed below*)

No hot water

Plumbing problem (*be specific*)

No heat

Ceiling cracking etc.

As you may recall, we discussed these problems on {enter date of discussion}.
(*Use this line only if it applies.*)

I believe that these defects are a breach of our lease agreement and a violation of the Implied Warranty of Habitability.

If these conditions are not corrected in {enter a number of days}, I intend to exercise my legal right to make the necessary repairs and deduct the cost from my rental payment. (*Include any estimates you may have that show the anticipated cost of the repairs.*)

I would appreciate your prompt attention to this matter.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

SAMPLE LETTER

Withholding Full/Partial Rent

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

I am writing regarding repairs that are needed to the apartment/house (*choose one*) located at {enter address} that I rent from you.

The specific problems that must be repaired are:

Make a list: (*Examples are listed below*)

No hot water

Plumbing problem (*be specific*)

No heat

Ceiling cracking etc.

As you may recall, we discussed these problems on {enter date of discussion}. (*Use this line only if it applies.*)

I believe that these defects are a breach of our lease agreement and a violation of the Implied Warranty of Habitability.

If these conditions are not corrected in {enter a number of days}, I intend to exercise my legal right to withhold some or all of my monthly rent payment until these items are corrected.

I would appreciate your prompt attention to this matter.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

SAMPLE LETTER

Terminating the Lease for Habitability Reasons — 1st Letter

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

I am writing regarding repairs that are needed to the apartment/house (*choose one*) located at {enter address} that I rent from you.

The specific problems that must be repaired are:

Make a list: (*Examples are listed below*)

No hot water

Plumbing problem (*be specific*)

No heat

Ceiling cracking etc.

I believe that these defects are a breach of our lease agreement and a violation of the Implied Warranty of Habitability.

If these conditions are not corrected in {enter a number of days}, I intend to exercise my legal rights to vacate the premises.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

SAMPLE LETTER

Terminating the Lease for Habitability Reasons— 2nd Letter

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

This is to advise you that I will vacate my apartment/house (*choose one*) located at {enter address} on {enter date}. I have followed all the prescribed move out procedures.

My forwarding address is {enter new address}. Please return my security deposit to the above address within 30 days after I vacate the premises.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

SECURITY DEPOSIT



A security deposit is money that belongs to the tenant but held by the landlord for protection against damages. The tenant is responsible for the rental payments for the entire length of the lease. When the lease has expired, the tenant should have the security deposit returned to them minus any damages to the property.

All or part of your security deposit can be withheld at the end of your lease term if you:

- damage the premises;
- fail to clean properly;
- fail to pay your last or any rental payment;
- fail to provide proper notice to the landlord that you are moving out.

Without the agreement of the landlord, the security deposit may not be used as the last month's rent. The security deposit should not be used to pay for damages from other tenants before you moved in or normal wear and tear on the property. See *Return of your Security Deposit*

Limits on the Amount of the Security Deposit

Pennsylvania law limits the amount of security deposit a landlord can demand. During the first year of the lease, the security deposit cannot be more than two months' rent. A landlord might ask the tenant to pay a security deposit plus "the last month". Regardless of what the landlord may call it, this "last month's rent" payment is still part of the two-month maximum security deposit for the first year.

During the second year or during any renewal of the original lease, the security deposit cannot exceed one month's rent. If a tenant's rent increases, the landlord can also increase the security deposit to equal one month's rent at the new rate for the first five years of the lease. After five years, the landlord cannot increase the security deposit even if the rent is increased.

If a tenant has paid two months' security deposit (or one month's security deposit and "the last month's rent"), then after the first year, the tenant may ask the landlord to return the amount of money held that is greater than one month's rent. This is done by writing a letter requesting this money and keeping a copy of the letter. The letter should be sent by certified mail, "return receipt requested," so that there is proof that the landlord received it. A tenant should follow-up the certified mail with regular mail if the tenant does not receive a signed receipt returned from the post office.

Interest on the Security Deposit

If more than a \$100 security deposit is collected:

1. The funds must be placed in a separate account
2. The account must be in an institution regulated by the Pennsylvania or Federal banking authorities
3. The landlord must notify the tenant in writing with the name and address of the depository (bank) and amount of deposit
4. **After the second year**, the interest earned on the tenant's money (less a 1% administrative fee to landlord) must be paid to the tenant annually on the anniversary date of the lease
5. The law does not specify how much interest a tenant must receive

Remember, today's interest rates are very low. Therefore, after a landlord deducts the 1% fee, there may be no interest due to the tenant. However, as a matter of doing good business, a landlord should notify a tenant in writing that there is no interest due.

Return of Your Security Deposit

Within **thirty (30) days** after the termination of the lease, the landlord must give the tenant:

1. A written list of any damages for which the landlord claims the tenant is responsible, with payment of the difference between the security deposit money plus interest (if any) and money used to pay for damages **or**,
2. A check for the entire amount of the security deposit.

If the landlord fails to do either one of the above within 30 days, he or she has given up the right to withhold any of the security deposit or interest and given up the right to sue the tenant in court for damages. On the 31st day, the tenant can sue the landlord for **double** the amount of the security deposit held in escrow plus interest (if any). Note that if the tenant did not provide a forwarding address or returned the keys, the landlord cannot be held to the 30-day deadline.

Contesting Damages Charged to Your Security Deposit

The landlord should not charge the tenant for ordinary wear and tear. For example, if a landlord decided the apartment needed to be repainted at the end of a lease, a tenant should not be charged for the repainting unless the tenant caused more than normal wear.

What Is Normal Wear & Tear?

Normal wear and tear is the ordinary deterioration of a property due to normal everyday use. It is not damage caused by abuse or neglect. There is a difference between normal wear and tear and damage done to a property. Carpet that is matted is normal wear and tear. Burns or stains on a carpet is damage caused by negligence. Fading or yellowing paint is considered normal wear and tear. Large stains in carpet or holes in the wall are compensable damages to the landlord.

What Can the Security Deposit Be Used For?

Your landlord may retain some or all of the security deposit to make repairs for damage other than normal wear and tear. Your landlord can keep your security deposit to cover any unpaid rent at the end of the lease term. A security deposit may also be forfeited if you break the lease. The landlord can charge you for cleaning a rental unit after move-out if you failed to do so—but the charges should be reasonable and only bring the property back to the condition it was in before you moved in.

You should not be held responsible for damages caused by previous tenants. By using the **Checklist for Inspection of Rental Unit**, a tenant can note any damages within the lease premises that existed before moving into the unit. Documentary evidence, eyewitnesses, and photographs are particularly helpful in establishing the fact that damages existed prior to tenancy. This type of evidence is extremely valuable should the tenant desire to sue the landlord for recovery of a wrongfully held security deposit.

Steps to Get Your Security Deposit Back When You Move

- **Give the landlord proper notice that you will be moving.**
- **This notice must be in accordance with the provisions of your lease.** You will need to read your lease to see where the Notice to Vacate should be delivered and how much notice must be given to terminate your lease.
- **Be sure to give the landlord your new address in writing at or before the time you move out.** You must do this even if it does not say so in your lease. See *Sample Letter - Notice to Vacate/Forwarding Address for Return of Security Deposit*
- It is best to send this notice by certified mail, “return receipt requested”. If you are not sure what your new address will be, give your landlord the address of a relative. Keep copies of all letters you send, the receipts for sending letters by certified mail, and the return receipts.
- **Clean the dwelling unit as thoroughly as possible before moving out.** Keep receipts for the rental or purchase of any cleaning equipment, for example, the rental of a steam cleaner for cleaning the carpet. Remember to clean the inside of the stove and the refrigerator, and dispose of any trash. Do not leave anything behind.
- **Make sure you do not owe any rent.**
- **Try to get your landlord to inspect the dwelling unit with you.**
- **Take photographs of the empty premises.** This is the time to go over your pictures, checklist, or any other documentation of damages that you prepared when you moved into the apartment or house.
- **Return the keys to the landlord.** If possible, get a receipt for any money owed that is paid to the landlord at this time.

Remember, if proper notice is not given, you are potentially breaching your lease and may forfeit your security deposit. If you do not formally end your lease, owe rent, or have not returned the keys, your landlord may refuse to return your security deposit.

SAMPLE LETTER

Notice to Vacate/Forwarding Address for Return of Security Deposit

Your Name

Your Address

Date

Landlord's Name

Landlord's Address

Dear {Enter Landlord's Name}:

Pursuant to 68 P.S. §250-512(e), I am providing you with the following forwarding address in writing:

{Enter Name Street Address City/State/Zip}

My lease terminates on {enter date}. I will be available for a final inspection of the unit at your convenience during the last week of {enter date}. Please contact me to arrange a time for the inspection.

Please forward my full deposit or a list of any damages claimed to be due with a refund of the balance of my security deposit together with accrued interest to the above address within the legal time limit of 30 days.

Sincerely,

Your Signature

Print Your Name

Your Contact Information

What to Do If Your Landlord Has Not Returned Your Security Deposit

If your landlord has failed to return the security deposit and provide you with a written list of damages within thirty (30) days, or if your landlord has failed to pay you the difference between the amount of the security deposit and actual damages to the rental unit within thirty (30) days, the landlord has forfeited:

- All rights to keep any portion of the security deposit (including interest) **and** the rental unit (however, the landlord may still sue the tenant for collection of unpaid rent or breach of lease).
- All rights to sue the tenant for damages to

You can file a civil complaint with the Magisterial District Court and sue the landlord for double the amount of the security deposit (including interest, if applicable). The landlord will not be able to file a counterclaim for damages.

If the landlord has provided you with a list of damages and a refund within thirty (30) days and you disagree with the amount of the damages, you can file a civil complaint with the Magisterial District Court. You will have to prove that the landlord has improperly charged you for damages. Again, the pictures, checklist, and other documentation will be helpful for this process. The landlord **is** entitled to file a counterclaim against you.

You will have to pay filing fees to the Magisterial District Court in order to file a civil complaint; however, you can ask that the landlord reimburse you for these charges. If the Judge's decision is in your favor, the filing fees and expenses should be paid by the landlord. If you go to Court, you should bring the following documents (if they exist):

- Your written lease
- Documentation or proof that you returned the key(s)
- Documentation or proof that you provided the landlord with a forwarding address
- A copy of any correspondence that you sent requesting the security deposit back
- A copy of any correspondence from the landlord explaining why the full amount of the security deposit was not returned.
- All rent receipts (or canceled checks)
- Security deposit receipt (or canceled check)
- List of damages when you moved in
- Pictures or videos (be prepared to say who took them and when)
- Witnesses who saw you pay the deposit, and/or who know the condition of your apartment when you moved in and moved out

If you have not given a forwarding address, you are still entitled to the security deposit. However, because of the difficulty the landlord may have in locating you, the landlord does not have to return it within 30 days.

Any lease clause that says you have waived these rights is unenforceable and therefore void.

RENT INCREASES



Bernard Kleina

Pennsylvania has no rent-control law. Landlords may raise the rent as much as they want. However, changes must be made in accordance with your contract (your lease).

1. The rent increase must follow the proper notice procedures outlined in the written or verbal lease.
2. The landlord may not raise the rent in the middle of the lease term unless you agree to the rent increase.
3. The landlord cannot raise rent in retaliation because the tenant exercised a legal right. The landlord is not allowed to raise the rent because a tenant filed a complaint of discrimination or contacted code enforcement. If your rent is raised because you filed a complaint of housing discrimination, you should inform the agency where you filed the complaint.

UTILITY SHUT-OFFS



If you receive notice that your utilities will be shut off, you need to act quickly to protect your rights. It is more difficult to get service turned back on after shut off. No matter who is responsible to pay for the utilities, a utility company cannot cut off service without the following:

- A 10-day written notice before shut-off
- An attempt to contact you or an adult in your household personally at least 3 days before the shut-off
- An attempt to contact you or an adult in your household at the time of the shut-off
- During December to March, if the company has not made personal contact prior to termination, it must post a notice in an obvious place at your house saying your utilities will be shut off and must give you at least 48 hours' notice

After a 10-day notice has been given to a tenant by a utility company, the company has 60 days to turn off the tenant's utility without another 10-day notice.

If the utility company turned off service without prior notice, it has broken the law. Contact the utility company and demand that the service be restored immediately. Ask to speak to the supervisor and write down the name of the person you speak with. If necessary, call the Public Utility Commission at 1-800-692-7380. If you need legal assistance, consult a private attorney or call your local Legal Aid office.

Steps to Avoid a Utility Shut-Off

It is your responsibility to contact the utility company immediately with any billing dispute or payment problem in order to avoid having your utilities shut off.

1. Contact the utility company at the phone number on the notice. Ask to set up a payment agreement. The length of payment agreements is determined by law. If your household is low income, make sure you inform the utility company as there are longer payment agreements available for low income households. The utility company is only required to provide you with one payment agreement for the same debt. If you do not believe a utility is providing a payment term you can report them to the Public Utility Commission (PUC) at 1-800-692-7380. The PUC can issue a payment agreement.
2. Show that you paid your bill or show that there is a disagreement (dispute) about your bill. If you dispute your bill or disagree with the meter readings, you must notify the utility company and tell them that you dispute the bill. Your service will not be able to be shut off during the period that you are waiting for a response to your inquiry or dispute. You will still be obligated to pay all utility bills that you do not dispute, including any bills you are receiving while the complaint is ongoing. If you and your utility company cannot agree, call the Public Utility Commission (PUC) at 1-800-692-7380.
3. The utility company cannot shut off your service if you obtain medical certification that someone in your home is seriously ill or someone has a medical condition that will be made worse by a shut off. After you tell the utility about this medical condition, you will need to get a doctor or nurse practitioner to call or send a statement to the utility company confirming the medical condition. The shut off can be stopped for a maximum of 30 days at a time. The medical certification can be renewed two additional times. If your service has already been shut off, this will require the utility company to restore your service. You still have to make payment arrangements on any undisputed utility bills.
4. If you are a victim of domestic violence and have a valid Protection from Abuse Order (PFA), there are special procedures and protections for handling your utility service. Call your utility company to inform them of your PFA so these special procedures and protections can be put in place for you. You may be required to provide a copy of the PFA to the utility company.
5. If you live in a low income household, there may be special arrangements to help you – See *Trouble Paying Utility Bills* for information on programs that help low income customers.

What if my Landlord is Responsible for Paying the Utility Bills?

If your landlord is responsible for paying for utility service and fails to pay the utility bill or if the landlord instructs the utility company to shut off your service, the Utility Services Tenants Right Act requires that you be notified by the utility company at least 30 days in advance.

Once the utilities have been shut off, the situation may become more complicated. First, attempt to have the landlord make the necessary payments immediately to restore your service. If the landlord does not make the necessary payments to restore service, you and any other tenants may have to make the payments in order to get the service restored. Any bill you pay to get the service restored can be deducted from your rental payments. You also may be able to have the utility service transferred to your name. However, be careful—you may need to put down a sizable deposit and it may also affect your lease. Seek legal counsel as soon as possible if you do this.

Getting Utility Service Back On

Between April 1 and November 30, if you pay the amount owed in full or make a payment agreement (if eligible) and meet any other conditions required by the utility company, your service must be restored within 3 days.

Between December 1 and March 31, your service must be restored within 24 hours if you pay the amount owed in full or make a payment agreement (if eligible) and meet any other conditions required by the utility company.

Who Is Responsible for Paying the Utility Bill?

Whether a lease is written or verbal, both parties must agree on which party is responsible for paying the utility bills. The tenant may be responsible for electric and gas while the landlord is responsible for water and sewer. If your lease is in writing, make sure that the lease outlines who is responsible to pay for utilities.

Does There Have to Be an Individual Meter for Each Apartment?

If the tenant is responsible for paying the utility bill, the Pennsylvania Utility Code requires the landlord to ensure that each residential unit is individually metered. This means that there cannot be a “foreign load” on the tenant’s utility bill—the tenant’s wiring cannot include the common areas or another apartment. If there are three units in a building, then there must be three separate meters for each of the apartments and a separate meter for the common areas.

If a rental unit is not individually metered, then the landlord is responsible for the utility bill—including any past due balance. The utility company should not allow the tenant to be billed for the service until it is confirmed that the wiring has been corrected.

Can My Landlord Retaliate Against Me for Asserting My Rights Regarding Utilities?

There is a provision within the Pennsylvania Utility Code that makes it unlawful for a landlord to retaliate against a tenant for exercising their rights under the Pennsylvania Utility Code. Any landlord, agent or employee of the landlord who threatens or retaliates against a tenant can be liable for damages equal to two months' rent or the actual damages sustained by the tenant, whichever is greater, and the costs of suit and reasonable attorneys' fees.

There is an anti-retaliation provision in the law that presumes illegal retaliation if an owner seeks to raise the rent or evict a tenant within 6 months of the tenant exercising their rights under the Pennsylvania Utility Code except in cases of nonpayment of rent. Note that these rights cannot be taken away even if the lease says you have given away these rights.

Can My Landlord Shut Off My Utilities Because I Am Behind in Rent?

Your landlord is not legally allowed to interfere with your utility service, even if you are behind in your rent. Even when the water, sewer, gas, or electric is included in your monthly rental payments, a landlord cannot legally shut off your utility service. This may be considered an illegal attempt to evict you without going through proper legal procedures and if this happens or if the landlord threatens this, you should consult an attorney or call legal aid. See *Q and A Eviction: My Landlord Has Threatened to Lock Me Out*.



Trouble Paying Utility Bills

If you have not paid, or if you are behind in paying, your utility bills, the utility company can shut off the service to your rental property after giving proper notice. See *Utility Shut-Offs*. However, even if you cannot pay the whole amount owed, you can take steps to keep your utility service on.

- Electric, gas and some water companies have **Customer Assistance Programs (CAPs)**. CAPs are available to low-income customers who have difficulty paying their full monthly bill. These programs provide discounts to the monthly bill as well as past debt forgiveness in exchange for the customer making regular monthly payments. Ask your company if you are eligible.
- Utility companies must allow you to pay your bills on a **budget plan** so that your winter payments are not extremely high while your summer payments are low. Under a budget plan, your payments are averaged so that each monthly payment is the same.
- You may be eligible for the **Low Income Home Energy Assistance Program (LIHEAP)**. This program may be able to help you in paying your utility bills or other costs of keeping warm (space heaters and home repairs). The Department of Public Welfare operates three energy programs—the Energy Assistance Cash Grant, the Crisis Grant, and the Crisis Grant Weatherization Repair Assistance. If you are experiencing a heating crisis, you may be eligible for benefits through the LIHEAP crisis program. Emergency situations include broken heating equipment or leaking lines that must be fixed or replaced, lack of fuel, a main heating source or second heating source (a source that is used to operate the main heating source or used if the main heating source is not working) that has been completely shut-off, and danger of being without fuel (less than a 15-day supply) or of having utility service terminated (received a notice that service will be shut off within the next 60 days)
- Each electric and gas company has a **Hardship Fund** to which low-income customers may apply in order to avoid shut-off or to have service reconnected. Call your company to see if you are eligible.
- **The Weatherization Assistance Program** and the **Residential Low Income Usage Reduction Program** are free services provided to eligible low-income utility customers. Services provided may include a home energy survey, usage reduction education and weatherization services. Contact your utility company or the Community Action Program serving your area in order to apply or to get more information.

- The Pennsylvania Public Utility Commission has many resources to help keep individuals and families warm during Pennsylvania winters. Visit their website at www.puc.state.pa.us to learn more.
- If you live **outside of Philadelphia**, visit the \$1 Energy Fund at www.dollarenergy.org or contact your utility company for information on programs that may help you pay your utility bill.
- If you live **in Philadelphia**, visit the Utility Emergency Services Fund (UESF) at www.uesfacts.org or call (215) 972-5170 for information on a program that may help you pay your utility bill.

To apply or for more information about **LIHEAP**, call the PA Department of Human Services at 1-800-692-7462 Monday through Friday (individuals with hearing impairments may call 711). You can also apply for LIHEAP at www.compass.state.pa.us. If you need help filling out your COMPASS application, call the HELPLINE at 1-800-692-7462 between 8:30 a.m. and 4:45 p.m., Monday through Friday. If you are hearing impaired, call TTY/TTD at 1-800-451-5886.

You can also call your local County Board of Assistance or the Community Action Program serving your area.

FALLING BEHIND ON RENT

As a tenant, you are legally responsible to pay the full amount of rent on time in accordance with your lease agreement. If you do not pay your rent on time, your landlord can file an eviction action against you. It does not matter if you are disabled or lost your job, have a sick family member, have children, or if it is during the winter months—you can still be evicted. If you believe you will not be able to pay your rent in full and on time, you should **tell your landlord as soon as possible**. Do not wait until the rent is due or after the due date. Your landlord will assume the worst if he does not receive a rent check from you. Explain why you cannot pay and ask to make a payment arrangement. If your landlord agrees to a payment agreement, get it in writing and keep a copy. If you do not abide by the agreement, the landlord will be able to evict you.

If you are having trouble paying bills, your main priority should be to **keep a roof over your head**. Your rent should be one of your top priorities. You may be able to get help from a local agency for emergency rent payments. Assistance may be available only during certain months of the year and usually only once per year. Local religious and community organizations may also offer emergency financial help. Your local county assistance office may have emergency shelter assistance for people who need help paying their rent or paying a security deposit for a new place to live. You can also consider applying for subsidized housing through your local Housing Authority.

Keep your utilities on. If you have fallen behind in utility payments, you may be able to arrange a payment plan with your utility company. This will allow you to keep your lights and heat on while you look to solve your financial issues. Many leases require that the tenant maintain utilities in the unit for the duration of the lease. If you allow your utility service to be terminated, you may face an eviction action for breach of lease terms. There are many programs to assist people with little or no income with their heating and other utility bills. See *Trouble Paying Utility Bills*

Your landlord is not legally allowed to interfere with your utility service, even if you are behind in your rent. Even when the water, sewer, gas or electric is included in your monthly rental payments, a landlord cannot legally shut off your utility service. This may be considered an illegal attempt to evict you without going through proper legal procedures and if this happens or if the landlord threatens this, you should consult an attorney or call legal aid. See *Q and A Eviction: My Landlord Has Threatened to Lock Me Out*.

TO SEE IF YOU ARE ELIGIBLE FOR PUBLIC BENEFITS such as **LIHEAP** (Energy Assistance), **Food Stamps**, **Medical Assistance**, **CHIP**, **Cash Assistance**, **Child Care Works Program**, **School Meals**, **Longer Term Living Services**, and **Early Intervention**, **Intellectual Disability** or **Autism Services**, visit www.compass.state.pa.us

If you need help filling out your COMPASS application, call the HELPLINE at 1-800-692-7462 between 8:30 a.m. and 4:45 p.m., Monday through Friday. If you are hearing impaired, call TTY/TTD at 1-800-451-5886. If you have a question during non-business hours or prefer to use e-mail, you may contact them by email through their website.

EVICTION

An eviction is a legal action started by the owner of a property to force a tenant to move out of the property. A court ordered eviction is the only legal way a landlord may force a tenant to leave a rental property. A lawful eviction requires a court proceeding. The length of the process will vary depending on the circumstances of the eviction.

A landlord can bring an action to evict a tenant if:

- The tenant fails to pay rent,
- The tenant fails to move out at the end of lease term, or
- The tenant violates terms of the lease agreement.

Examples of violations of the lease agreement include:

- Continual late payment of rent
- Damaging the rental unit beyond normal wear and tear
- Using the rental unit for purposes not permitted under the rental agreement (for example, operating a business, allowing unauthorized persons to live with you, etc.)
- Keeping a dog, cat, or other animal that is not a service animal when pets are not permitted in the lease
- Repeated noise violations that disturb other tenants
- Engaging in criminal activity
- Failure to keep lawn cut and grounds maintained if you agreed to this in the rental agreement
- Improper storage or disposal of garbage that attracts insects, rodents, etc.
- Failure to abide by the proper rules and regulations that are either in the lease, attached to the lease, or given at the signing of the lease

Order of Eviction Proceedings

Notice to Quit

A landlord will probably begin by giving a tenant a **“Notice to Quit”**. This notice can be posted on the tenant’s door or the landlord may hand it to an adult on the premises. It **cannot** be sent by regular or certified mail. Any notice that is only sent by mail should be considered void and argued as such in court.

Check the terms of your lease. The amount of time the landlord is required to give a tenant to vacate should be written in the lease. If the lease says five days, the tenant should be given five days. The lease may have a “Waiver of Notice” which says that the landlord does not have to give the tenant any prior notice.

Check the *Eviction Timetable* to see how much notice is required if it is not specified in your lease. Unless specified in your lease, the amount of notice required depends on the reason for the eviction.

The Notice to Quit must include the name of the landlord, name of the tenant, address of the rental property, reason for the notice (such as failure to pay rent for a specific time period or for some other violation of the lease) and a date by which the landlord wants the tenant to move out of the rental property. The notice must be clear, decisive, and free from ambiguity.

What if the landlord has not given proper notice?

If the landlord has not given proper notice in accordance with the lease, the tenant can bring this up in Court. If the tenant can demonstrate that proper notice was not given (for example, the landlord only gave 10 days' notice when the lease requires 30 days' notice), then the judge should dismiss the case and require the landlord to restart the process by giving the tenant proper notice before filing again. This will only buy the tenant more time in the property, it will not prevent the tenant from eventually being evicted.

Court Hearing

If the tenant has not moved within the time stated in the eviction notice, the landlord must go to the Magisterial District Court in order to file a **Landlord/Tenant Complaint**. A court hearing will be set for seven (7) to fifteen (15) days after the landlord files the complaint.

You will receive a copy of the Landlord/Tenant Complaint from the Magisterial District Court via first class mail and you will also have a copy served on you by a sheriff or a constable. If you receive a notice for a court hearing, contact a tenant's rights organization or an attorney to discuss your specific circumstances so you will know your rights and be prepared.

Should I attend the hearing?

Yes! If you are late or fail to appear at the hearing, a judgment may be entered against you by default. Plan to arrive early because even if you are only a few minutes late, a judgment could be entered against you by default. Your presence is vital at the hearing. If someone other than the Court tells you that the hearing was canceled or postponed, check with the Court to determine if this is true. The hearing gives you the chance to present your defense or counterclaim against the other party. If you cannot go on the scheduled date of the hearing or an emergency arises, call the Magisterial District Court's office as soon as possible before the court date and ask if the hearing can be continued to allow you to attend.

If you and your landlord come to an agreement before the court date or if someone other than the court tells you that "everything is taken care of", plan to attend the hearing anyway or check with the Court to see if the hearing is still scheduled. See *Q and A: Magisterial District Court* for more information about the hearing and what to expect.

Any time before the hearing, you can file a cross-complaint (or "counterclaim") or assert any other claim against the landlord. If you file a cross-complaint, the hearing on both complaints must be held after seven (7) days, but no more than fifteen (15) days from the filing of your cross-complaint. If you file a counterclaim, it must be served on the other party at least five (5) days before the hearing.

Judgment

After the hearing, the Magisterial District Judge will either make a decision that day or within three (3) days. The Judge will issue a written **Notice of Judgment**. If the judgment is in your favor, the landlord will be required to do what the Judge ordered—such as not evicting you from the rental unit. If the Magisterial District Judge finds in favor of the landlord, the judgment will be entered against you. The Notice will tell you what type of judgment has been entered.

- Possession Granted if Money Judgment Not Satisfied
- Possession Granted
- Possession Not Granted
- Money Judgment

If the Judgment is for **Possession Granted if Money Judgment Not Satisfied** (commonly referred to as “Pay and Stay”), you have the opportunity to pay any money that is owed in full at any time prior to the eviction date to avoid an eviction and remain in the home.

- If the landlord is paid in full, including judgment costs, within 10 days of the judgment, no order for possession can be requested.
- If you do not pay within 10 days or file an Appeal and pay a bond if required, the landlord may request an Order for Possession. Court costs will go up if the landlord requests an **Order for Possession**, so it is best to pay as soon as possible.
- A forced eviction date will be scheduled 10 days after the Order for Possession is posted on your door by a constable. Up to and including that date, you can still pay the judgment in full to avoid the eviction.
- If you pay before the eviction date, you should make arrangements with the landlord and the constable and keep a receipt for proof of payment.
- If you pay on the date of the eviction, you will have to pay the constable directly and you will have to pay in cash. The constable will not take a check and the eviction will proceed as scheduled.

Keep in Mind: A judgment will stay on your record until you pay it in full. It can affect your credit rating and can negatively affect your ability to obtain future housing.

Order for Possession

If the judgment is **Possession Granted**, you will have to move out of the home by the scheduled eviction date even if you pay all the money owed in full. If you disagree with the decision and want to stay in the home, you will need to file an Appeal to the Court of Common Pleas within 10 days of the judgment date and post a bond. See *Appeal Process*

After the 10-day appeal period has passed, the landlord can file for an Order for Possession. When the landlord has obtained an Order for Possession, the tenant will be served a notice by a constable either in person or by posting the notice on your door.

- The constable's notice will say that the tenant has ten (10) additional days to vacate the dwelling from the date of service.
- This notice is a final deadline to vacate.
- If the tenant does not move by the end of the ten (10) day period at the time and date in the notice, the constable may forcibly remove the tenant and padlock the door to the rental unit.

If you are not planning to Appeal, you will need to make plans to move out as soon as possible before the scheduled eviction date. At least move all of your belongings out of the rental unit before the scheduled eviction because you will only have minutes to vacate when the constable arrives.

Tenants are required to remove their belongings upon relinquishing possession of a rental (including at the time of an eviction). If you have not removed your belongings when the constable evicts you, you will have to move quickly to recover your property. See *How to Get Back Your Belongings After Being Evicted or Moving Out*

Keep in Mind: It takes at least twenty (20) days after the hearing before the legal lockout can occur.

What happens if the constable never comes to evict me?

It is possible that the landlord will never execute on the Order for Possession and the constable is never notified to evict you. Generally, this happens when the landlord and tenant work out a payment agreement and the landlord agrees that the tenant can stay. If you are able to work out an agreement, make sure that you get a receipt for the money that you pay the landlord and get the agreement in writing.

A landlord can request a re-issuance of an Order for Possession generally within 120 days of the judgment date.

Appeal Process

There are often two parts to a Judge's decision: **Possession** (eviction) and **Money Judgment**.

You have the right to appeal a judgment entered against you. Appeals are filed with the Prothonotary at the Court of Common Pleas. To appeal a decision by a Magisterial District Court, you will need to bring a copy of the Judgment with you to the Prothonotary's Office. It is advised that you seek the counsel of an attorney if you chose to file an Appeal, as the process at this court level is more complicated. Most likely, your landlord will have an attorney.

If you are appealing a Judgment for Possession and you want to stay in your home, you have ten (10) days from the judgment date to appeal the decision.

You must also file a **Supersedeas** to stop the sheriff or constable from removing you from the property. If you do not tell the Prothonotary's Office that you want to stop the lock out and do not file a Supersedeas then you will only be appealing the money judgment and the lock out will still occur as scheduled.

You will have to pay filing fees and the Supersedeas requires the tenant to pay a bond in the amount of the monetary judgment or 3 months' rent, whichever is less. (If you have a very low income, you may only have to pay a third of your rent as a bond when you file your appeal.) This money will be placed in an escrow account. You will also be required to pay the monthly rent to the Court every 30 days from the date of the appeal. If you fail to do this, the Supersedeas may be terminated and the eviction may proceed. Make certain that you keep track of this deadline as some months have more than 30 days.

If you do not want to appeal a Judgment for Possession, but only want to appeal the Money Judgment, you have thirty (30) days from the date of the judgment to appeal.

Appeals are filed with the Prothonotary at the Court of Common Pleas. You will need to bring a copy of the Judgment with you to the Prothonotary's Office. No bond is required to appeal a money judgment.

What Happens if There is No Appeal?

If the Magisterial District Court grants a **Judgment for Possession**, then the landlord must wait 10 days to request a document called an Order for Possession from the Magisterial District Court. A constable or sheriff's deputy will serve the Order for Possession on you that gives you an additional 10 days to vacate the premises. If you do not move within 10 days after you receive the Order for Possession, the constable or sheriff's deputy will physically remove you from the property.

If the Magisterial District Court grants a **Money Judgment**, you have 30 days to pay the judgment. If you do not pay it, the party who sued you can then go to the Magisterial District Court and request the issuance of a document called an **Order for Execution**. A constable or sheriff's deputy will serve the Order for Execution on you by giving you a notice or posting it on your door. At the time the Order for Execution is given to you, the constable or sheriff's deputy will make a list of property he or she will sell to pay off the judgment against you. This list is called a **levy**.

Call an attorney or Legal Aid right away for more help if a levy is put on your property. If you do nothing, your property may be sold several weeks after the levy is made at a constable or sheriff's sale, unless it is worth less than \$300 (\$600 if you are married and, you and your spouse, were both sued). You can file an Appeal or objection to the Levy (sale of property).

Garnishment of Wages

Pennsylvania Law allows for a landlord to collect on a judgment for damages exceeding the amount of the Security Deposit by garnishing up to 10% of a tenant's net wages as long as this amount does not place the debtor's income below the poverty guideline.

Eviction Notice Timetables

Landlord/Tenant Eviction/Nonrenewal Process Timetable for Apartment or House:

If the Reason for Eviction is:	A Landlord Must Give a Tenant:
Non-Payment of Rent	10 Days' Notice
Acts Relating to Illegal Drugs	10 Days' Notice
Expiration/General Breach of a Month-to-Month Lease or Indefinite Term Lease	15 Days' Notice
Expiration/General Breach of a Year or Less Lease	15 Days' Notice
Expiration/General Breach of a Lease Longer than One Year	30 Days' Notice

Landlord/Tenant Eviction Process Timetable for Mobile Home Park:

If the Reason for Eviction is:	A Landlord Must Give a Tenant:
General Breach of Lease for Less Than One Year or Indefinite Term	30 Days
General Breach of Lease for Longer Than One Year	3 Months from the date of service
Failure to Pay Rent Between: April-August	15 Days
Failure to Pay Rent Between: September-March	30 Days

Landlord/Tenant Eviction Process Timetable for Legal Proceedings and Appeal to Common Pleas:

Magisterial District Judge Schedules Hearing	1-15 Days After Landlord Files Complaint
Magisterial District Judge Will Enter Judgment at Conclusion of Hearing or Within	3 Days
Order for Possession by Landlord	After the 10 Days Following the Day of the Disposition
Constable Executing the Order for Possession Can Evict the Occupants if They Remain on the Premise More Than:	10 Days after Service of the Order for Possession
Judgment Affects Delivery of Possession of Residential Property, Appeal Within:	10 Days after Disposition
Judgment is for Money, or Possession of Non-residential Property, Appeal Within:	30 Days after Disposition

Q&A EVICTION

I need more time to move. My situation is special. Does that matter?

You do not have the right to demand more time in order to find a new place to live or move out your possessions. The responsibilities are the same for all tenants. It does not matter if you are a senior citizen or if you have children, you still have a legal obligation to fulfill the lease or contract that you agreed to and your landlord has the legal right to evict you if you have broken the contract. If you have not paid your rent, then the landlord has the absolute right to evict you. It does not matter if you fall behind in rent because you get sick or lose your job or because you have other bills to pay. You can try to negotiate with your landlord for more time. If your landlord agrees to more time, then ask the landlord to sign an agreement stating that you can stay longer.

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

You will need to find a place for both you and your belongings. Do not leave your possessions behind. Your landlord is not required to keep them for you, and, in fact, can charge you a storage fee if you leave your possessions behind. If you cannot find a place to live, contact family or friends. You may want to place your belongings in storage temporarily until you find a new place to live. You can also contact local shelters or transitional housing.

Will I be able to stop an eviction?

If the eviction case was **only** for nonpayment of rent, you may stop the eviction any time before you are actually evicted by paying the amount the Magisterial District Court ordered, including court costs. This is called the right to pay and stay. Court costs will go up if the landlord requests an **Order for Possession**, so it is best to pay as soon as possible. You could also try to come to an agreement with the landlord to make payments towards the amount you owe. If you are able to come to an agreement, make sure you get it in writing so you will have proof if the landlord tries to evict you.

My landlord has threatened to lock me out. Can they do that?

*The landlord is not allowed to lock you out of your apartment or house without a court order. This is referred to as a **Self-Help** Eviction. Even if the landlord is justified in evicting a tenant, a self-help eviction is unlawful. A landlord **must** provide the tenant with **Notice to Quit** as required in the lease and go through the proper procedure for eviction with the Magisterial District Court. Only a constable or sheriff can legally remove a tenant's property and lock a tenant out with an order from the Court.*

Examples of Illegal Self-Help Evictions include:

- Padlocking or changing the locks
- Removing your personal property from the property
- Turning off some or all of your utilities
- Removing the door or windows

Note: Rules for rooming houses are different. Rooming houses are treated like hotels. If a tenant rents a room and rent is not paid, the owner may padlock the door. Call a tenants rights organization or Legal Aid to see if your living situation meets the definition of a rooming house. Just because the landlord calls the property a “rooming house” or “boarding house” does not necessarily mean that you do not have some protections under the Pennsylvania Landlord Tenant Act.

There are a few options that a tenant can pursue if the landlord has engaged in self-help eviction. Consult an attorney regarding your options.

1. Call the police. You will need to show that you have a right to occupy the premises. So, if you anticipate that this could happen, keep a copy of your lease and current utility bills somewhere outside the home—such as in your car or purse. Some police departments will intervene with the landlord to get you back into the apartment and some police departments will refuse to get involved. Be polite and remain calm.
2. Call Legal Aid or a private attorney for assistance.
3. Request that a judge of the Court of Common Pleas issue an injunction against the landlord. In this case, an injunction would be a court order directing the landlord to allow you back in your residence, to turn on your utilities, and/or to stop interfering with your legal use of your residence.
4. Seek to collect actual damages from the landlord. Actual damages would be all losses you can prove you suffered. An example may be the reasonable cost of a hotel room if you are forced to move due to your landlord locking you out of your residence.
5. Seek punitive damages if the landlord’s conduct was outrageous and resulted in severe emotional distress and bodily harm.

How do I get my belongings back after being evicted or moving out of a property?

If you recently moved or have been evicted from a rental property, you may retrieve personal items you left behind for a limited time.

If you are evicted or move out of a rental property, you have **ten days** to contact your landlord and let your landlord know you intend to retrieve your personal property left behind. You should notify your landlord of your intent to retrieve any personal property left behind by calling your landlord and by sending your landlord a letter. Keep a copy of the letter you send to your landlord. If you do not contact the landlord within the first 10 days after being evicted or receiving a notice from the landlord that you left personal property behind, the landlord can dispose of all the personal property.

After you contact your landlord stating that you want to get your belongings, you have **30 days** from the day you were evicted or from the postmarked date of your landlord’s notice for you to retrieve your personal property.

If you have moved out and have left personal property behind, the landlord must send notice informing you that you left personal property. If you have not given your landlord a forwarding address, the notice will be sent to your old address. If you are evicted, your landlord **does not** have to send you notice that you left personal property behind. You will have to contact the landlord on your own.

After 10 days from the day you were evicted or from the postmarked date of your landlord’s notice to you to retrieve your property, the landlord can begin charging you a fee for storing your belongings.



Magisterial District Court

What is a Magisterial District Judge?

A Magisterial District Judge is a locally elected official who can decide small civil lawsuits such as landlord-tenant matters. The Magisterial District Judge used to be called a Magistrate or Justice of the Peace.

Do I need an attorney?

No. Attorneys are not required during the hearing. However, if you would prefer to have an attorney present, you may retain one and bring them to the hearing.

Should I go to the Magisterial District Court hearing?

Yes! If you are late or fail to appear at the hearing, a judgment may be entered against you by default. Meaning, if you fail to show up, you could lose the hearing and be required to pay the judgment entered against you. Your presence is vital at the hearing, even if someone other than the court says that the hearing was canceled. In addition, the hearing gives you the chance to present your defense or cross-complaint against the other party. If you cannot go on the scheduled date of the hearing or an emergency arises, call the Magisterial District Court's office and ask if the hearing can be rescheduled.

If you have a good reason for being late or missing the hearing, you must file a petition promptly after learning of the default judgment, and you must have a valid, meritorious claim of defense.

What is a "Defense"?

A defense is your reason(s) why allegations brought against you are not true. You will not need to file any papers in order to be able to present your defense. A common defense is that a landlord did not give the tenant proper notice to vacate the rental unit in accordance with the lease. If you have a written lease, the landlord is required by law to give you notice in accordance with the lease. The law establishes the amount of time a landlord must give you if you do not have a written lease. See *Eviction Notice Timetables*. Another common defense is that the apartment had serious defects. Whatever your defense, you will need documentation and/or witnesses to prove your defense.

What is a Plaintiff?

A plaintiff is the person bringing the lawsuit; the person who is suing the defendant. The defendant is the person being sued.

What is a "Counterclaim"?

A counterclaim is a claim that the other party owes you money. For example, if a tenant paid for repairs (after notifying the landlord) in order to make the dwelling habitable and the landlord does not reimburse the tenant for the costs, the tenant may file a counterclaim. It must be filed with a **Civil Complaint Form** at the Magisterial District Court's office. There is no fee for filing the counterclaim, but the person filing the counterclaim will have to pay for the cost of serving the counterclaim on the other party. If you plan to file a counterclaim, you should file it as soon as you receive notice of the hearing. Both the landlord's complaint and your counterclaim will be decided at the hearing.



How should I prepare for my hearing?

If you have a lawyer, you should go over the information that will be presented at the hearing with your lawyer. If you do not have an attorney, you should make a checklist of important points and a sequential outline of the things that happened. Be brief and to the point. Be ready to explain each item of evidence. Practice telling your side of the case. If you have taken photos, you will need to bring them to the hearing. You should be able to say who took the photos and when the photos were taken. Dress your best and arrive on time for the hearing.

What will happen at the hearing?

At the hearing, all testimony is under Oath. The Plaintiff (the person who sued you) is allowed to testify first. Witnesses may also testify on the plaintiff's behalf. After the Plaintiff is done testifying, you will have a chance to ask questions of the people who testified. You are not required to ask them any questions. You will also be given an opportunity to present your case and your witnesses. Say "Your Honor I would like to present a defense." or "Your Honor, I would like to ask Mr. or Ms. X a question." You and your witnesses can be questioned by the Magisterial District Judge or by the Plaintiff.

Remember to maintain your composure and be polite. Be brief and to the point. Try not to ramble or the judge may cut you off. Address all of your questions and comments to the judge using "Your Honor" as a formal form of address. If you wish to ask a question of another party, first ask permission from the judge to ask a question. Do not interrupt the judge or the other party. You will have an opportunity to speak and explain your case.



Magisterial District Court

May I object to something a witness is saying?

Yes. The two most common objections are Relevancy and Hearsay.

Relevancy Objection: The tenant or landlord may object if the information presented is not relevant to the situation that the hearing is intended to resolve. Example: The landlord testifies that your brother was arrested 10 years ago for assault. Say politely but firmly. “Your Honor, I object. That is not relevant.”

Hearsay Objection: You may also object to testimony about statements that were made by people who are not at the hearing. This is called “hearsay” and should not be allowed. Example: A witness testifies that a neighbor told him that she saw you breaking a window. Say, “Your Honor, I object. That is hearsay.”

Be careful not to interrupt the Magisterial District Judge unless you are making a legal objection to testimony being presented.

May I Bring Documents?

Yes, you can bring any documents that help prove your case. Any document important for the case must be presented at the hearing. The Magisterial District Judge will not give you a chance to go home and get any documents you forget to bring to the hearing. The Magisterial District Judge cannot consider written statements from people who do not come to the hearing to testify if the other party objects to the written statements. If someone has something important to say about your case, he/she will need to attend the hearing.

However, the Magisterial District Judge can consider a bill, estimate, receipt, canceled check or bank statement if it helps prove your defense or counterclaim. Be sure to bring your lease and any relevant correspondence between you and your landlord. Bring photos and witnesses.

Can I subpoena someone to appear at the hearing?

Yes. You have the right to subpoena witnesses. You may wish to subpoena a code enforcement officer or housing inspector or a repair person to testify about the condition of your apartment. A subpoena is a document that requires an individual to come to the court and testify even if they do not want to come. The witness can also be subpoenaed to bring certain documents needed to prove your defense or your counterclaim. You should obtain and serve subpoenas as soon as possible to be sure the witnesses get them in time for the court hearing.

What happens after the hearing?

The Magisterial District Judge will make a decision either at the hearing or by mail within three (3) days. If the judgment is in the tenant’s favor, the landlord is required to do what the Magisterial District Judge orders. If the judgment is in favor of the landlord, the tenant is required to do what the Magisterial District Judge orders. See *Eviction: Judgment*

What if I do not agree with the Magisterial District Court’s Decision?

You have the right to appeal a judgment entered against you. Appeals are filed with the Prothonotary at the County Courthouse. See *Eviction: Appeal Process*

What Should I Do If the House or Apartment I'm Renting Goes Into Foreclosure or Is Sold at Sheriff Sale?

If your landlord stops paying the mortgage, foreclosure proceedings may begin. If the owner of a property fails to make a payment arrangement on municipal debt levied on the property, that property may be sold at a Sheriff Sale to allow the municipality to collect on that unpaid debt. These debts can include outstanding water and sewer bills, school taxes, and property taxes.

When a tenant is living in a property that has been foreclosed or sold at Sheriff sale, the new owner (including a bank) must abide by certain rules. The new owner cannot change the locks or otherwise take action to force the occupants out into the street. A tenant can only be locked out by a Court Order. The owner must go to Court and file an Action in Ejectment. This is completely separate from the foreclosure proceedings and it has similarities but is different from a landlord-tenant eviction proceeding.

- If notices of a possible foreclosure are delivered to or posted on your property, contact the sender right away and explain that you are a tenant. You should also contact your landlord.
- You may get confusing information from your landlord about the foreclosure. For example, the landlord may ask you to prepay your rent in violation of your lease or rental agreement. Your landlord may also tell you that the foreclosure is a “mistake,” or say that the problem has been resolved. Do not get tricked into paying rent to the former owner after the property has already been sold to another party. To be sure, check with the office where deeds are recorded in the county where the property is located. You may also want to check court filings against your landlord.
- Call Legal Aid or consult with an attorney to find out what your options are, how long the foreclosure may take and how much time you have to move after a foreclosure or Sheriff sale.
- If your landlord is unable to pay the mortgage, the landlord may also not be paying the utilities, and your utility service may be shut-off. You should immediately contact the utility and the landlord if a shut-off notice is sent or if your utilities are shut off. You may be able to avoid the shut-off by contacting the utility and paying it directly, even if the utilities are in the landlord's name. See *Utility Shut-Offs*
- Do not get scammed. If someone contacts you claiming to be the new property owner, ask to see documents that show ownership. Do this before paying rent, signing a new lease agreement, or allowing them to come inside the property. Scammers review publicly available foreclosure recordings and may contact tenants living in foreclosed properties to falsely demand rent.
- Negotiate a payment to move out. If the new owner wants you to move out, ask if he or she will give you some money to help pay moving expenses. This is sometimes referred to as a “cash for keys” agreement. Sometimes the bank or the new owner after a foreclosure sale is willing to do this if you agree to move out within a certain period of time.
- You should remove all of your belongings when you move out so the new property owner does not take or destroy them.
- If the landlord did not refund your security deposit or transfer it to the new owner after the foreclosure sale, you may need to take legal action to get back your deposit. See *What to Do if Your Landlord Has Not Returned Your Security Deposit*

Call Legal Aid or consult an attorney about your rights.

RESOURCES

For Information regarding Legal Issues including **Landlord/Tenant**, Consumer, Children and Families, Employment, Health Law, Housing and Shelter, Public Benefits, Disability, Elder Law, Immigration Issues, Migrant Issues, and Veterans and Military visit the website PALawHELP.org

If You Believe You Have Experienced Housing Discrimination or Would Like to Report Housing Discrimination

U.S. Department of Housing and Urban Development

To file a housing discrimination complaint based on race, color, religion, national origin, sex, disability or familial status:

- Call HUD at 1-888-799-2085.
- To file an online complaint: visit www.hud.gov and click on “File a Discrimination Complaint.”
- You may also email a complaint to complaintsoffice03@hud.gov or mail a complaint to HUD FHEO, Attn: Intake Branch, 100 Penn Square East, Philadelphia, PA 19107.
- HUD’s TDD number is 1-800-877-8339.

Complaints of housing discrimination must be filed with HUD within 1 year from the date of the incident.

Pennsylvania Human Relations Commission

To file a housing discrimination complaint based on race, color, religion, national origin, sex, disability, familial status, age (over 40), or because you are a user, handler, or trainer of assistance animals for person with disabilities:

- Call 215-560-2496 or visit www.phrc.pa.gov to download complaint forms.

Complaints must be filed with the PA Human Relations Commission within 180 days of the incident.

Housing Equality Center

If you live in the City of Philadelphia or Bucks, Chester, Delaware, Lehigh, Northampton, or Montgomery Counties, you can contact the Housing Equality Center for assistance in filing a housing discrimination complaint:

- Call 267-419-8918 or 866-540-FAIR (3247) or email info@equalhousing.org or visit www.equalhousing.org

Magisterial District Court

To Find the Magisterial District Court in Your Area, go to www.pacourt.us , Click on 'Minor Courts' and then click on 'Magisterial District Judge'. You can search by county or zip code to get the contact information for the Magisterial District Judge servicing your area.

To Contact Your Local Code Enforcement Official

Each municipality has its own Code Enforcement Department. Call the municipality (Township, Borough or City) in which you live.

Pennsylvania Office of Attorney General, Bureau of Consumer Protection

Pennsylvania Office of Attorney General, Bureau of Consumer Protection investigates consumer complaints, attempts to mediate and correct the problems for you.

- The Consumer Protection Hotline is 1-800-441-2555.

Senior LAW Center

Senior LAW Center serves Pennsylvanians 60 years of age and older. Legal advice, counseling, information, and referral services are available at 1-877-PASRLAW (727-7529) or www.seniorlawcenter.org

Disability Rights PA

Disability Rights PA protects and advocates for the rights of people with disabilities so that they may live the lives they choose, free from abuse, neglect, discrimination, and segregation. Visit the website www.disabilityrightspa.org, email intake@disabilityrightspa.org or contact the office closest to you:

Harrisburg Office

301 Chestnut Street Suite 300
Harrisburg, PA 17101
1-800-692-7443 (voice)
1-877-375-7139 (TDD)
(717) 236-8110 (voice)
(717) 236-0192 (fax)
drnpa-hbg@drnpa.org

Philadelphia Office

The Philadelphia Building
1315 Walnut Street, Suite 500
Philadelphia, PA 19107-4798
(215) 238-8070 (voice)
(215) 772-3126 (fax)
drnpa-phil@drnpa.org

Pittsburgh Office

429 Fourth Avenue, Suite 701
Pittsburgh, PA 15219-1505
(412) 391-5225 (voice)
(412) 467-8940 (fax)
drnpa-pgh@drnpa.org

Pennsylvania Bar Association

The PBA Lawyer Referral Service (LRS) refers callers to lawyers in the counties that do not have a referral service of their own. This service covers 45 of the 67 counties in the Commonwealth of Pennsylvania, and can be reached by calling 800-692-7375 (for in-state callers only), 717-238-6807 or <http://www.pabar.org>.

Pennsylvania Local Lawyer Referral Services

If you are looking for an attorney in a county listed below, please contact that county bar association's Lawyer Referral Service directly.

Allegheny County, Pittsburgh (412) 261-5555	Dauphin County, Harrisburg (717) 232-7536	Mercer County, Mercer (724) 342-3111
Beaver County, Beaver (724) 728-4888	Delaware County, Media (610) 566-6625	Monroe County, Stroudsburg (570) 424-7288
Berks County, Reading (610) 375-4591	Erie County, Erie (814) 459-4411	Montgomery County, Norristown (610) 279-9660
Blair County, Hollidaysburg (814) 693-3090	Franklin County, Chambersburg: (717) 267-2032	Northampton County, Easton (610) 258-6333
Bucks County, Doylestown (215) 348-9413 (888) 991-9922	Lackawanna County, Scranton (570) 969-9600	Philadelphia County, Philadelphia (215) 238-6333
Butler County, Butler (724)-841-0130	Lancaster County, Lancaster (717) 393-0737	Washington County, Washington (724) 225-6710
Carbon County, Lehighton (610) 379-4950	Lebanon County, Lebanon (717) 273-3133	Westmoreland County, Greensburg (724) 834-8490
Chester County, West Chester (610) 429-1500	Lehigh County, Allentown (610) 433-7094	York County, York (717) 854-8755
Cumberland County, Carlisle (717) 249-3166	Luzerne County, Wilkes-Barre (570) 822-6029	

Pennsylvania Legal Aid Network, Inc.

If you think you may qualify for free legal assistance, the Legal Aid office near you can be located by going to www.palegalaid.net Click on Service/Staff Locator, and then on your county in Pennsylvania. Or you can 717-236-9486 and follow the prompts to hear the contact information for the Legal Aid office in your county.

If you do not qualify for legal aid or if the Legal Aid office you contact cannot help you for any reason, please check out PALawHELP.org to see what additional legal resources and information are available to you.

Pennsylvania Utility Law Project

Facing a utility shut off? Already without service? Pa residents may be eligible for free legal help.

- Call 1-844-645-2500 or email utilityhotline@palegalaid.net

PA Housing Search

- www.pahousingsearch.com
- Toll-Free: 1-877-428-8844. TTY is 7-1-1.
- The Pennsylvania Housing Finance Agency's search tool helps people search for housing by topics such as rent amount, area of interest, accessibility, or availability of public transportation. On the website, you can also find additional statewide information and resources, including a rental checklist, rent calculator, information on services, transportation, Frequently Asked Questions related to renting, and much more by visiting the "Info and Links" section of the website.

Public Benefits

To see if you are eligible for public benefits, such as LIHEAP (Energy Assistance), Food Stamps, Medical Assistance, CHIP, Cash Assistance, Child Care Works Program, School Meals, Long Term Living Services, and Early Intervention, Intellectual Disability or Autism Services, visit www.compass.state.pa.us.

If you need help filling out your COMPASS application, call the HELPLINE at 1-800-692-7462 between 8:30 a.m. and 4:45 p.m., Monday through Friday.

If you are hearing impaired, call TTY/TTD at 1-800-451-5886. If you have a question during non-business hours or prefer to use e-mail, you may contact them by email through their website.

2-1-1 United Way

- www.pa211.org or dial 2-1-1.
- PA 2-1-1 is a free resource and information hub that can connect you with customized health, housing, and human services information.
- By calling 211, you can receive information related to food, housing, employment, health care, along with a variety of other services.

Public Housing Authorities

If you need public housing assistance or information about public housing programs, such as Housing Choice Vouchers (HCVs), please contact your local public housing authority (PHA). The HCV program is the federal government's major program that assists very low-income families, older adults, and individuals with disabilities with obtaining decent, safe, and sanitary housing in the private housing market. If you need assistance locating your local public housing authority, call 2-1-1 (United Way) for information.

Quick Start Housing Resources

- www.phfa.org/mhp/serviceprovider
- Use this web page to find the contact information, by county, for a variety of housing providers including housing authorities, homeless providers, community action agencies, and more. Click on the “Hot Topics” button to see a drop down menu of counties in Pennsylvania and select the county to view.

Pennsylvania Utility Commission

Utility customers may call the PUC’s hotline at 1-800-692-7380 regarding complaints, terminations or payment arrangements. They ask that you first call your utility to try to resolve the problem.
www.puc.state.pa.us

Pennsylvania LINK to Aging and Disability Resources

- Toll Free HELPLINE: 1-800-753-8827.
- Aging and Disability Resource Centers (ADRC) are a nationwide effort to assist older adults and individuals with disabilities who need help with activities of daily living. The ADRC in Pennsylvania is known as the Link.
- The PA Link can: easily connect you to local services through any LINK partner agency; help you explore existing options to ensure a secure plan for independence; assist you with applications to determine eligibility; and help you remain in, or return to, your community.

Accessibility Modifications

If you have a disability and need to make modifications to your home or need assistive technology devices or services to improve the quality of your life, the **PA Assistive Technology Foundation** can help people with disabilities and older Pennsylvanians get the assistive technology they need with low-interest and 0% interest financial loans, information and assistance about possible funding resources including public and private grants, financial education through various publications and individual counseling. The PA Assistive Technology Foundation helps Pennsylvanians of all ages, all income levels and all disabilities. www.patf.us

Pennsylvania Assistive Technology Foundation

1004 West 9th Avenue #130
King of Prussia, PA 19406
(484) 674-0506 (voice)
(888) 744- 1938 (toll free)
(484) 674-0510 (fax)
patf@patf.us

Other Disability Services

The Self-Determination Housing Project (SDHP) of Pennsylvania is a statewide non-profit organization that works to expand housing options for people with disabilities in Pennsylvania. SDHP provides information and resources to people with disabilities and their families about housing options. SDHP also administers several statewide and/or county-wide housing programs including the Regional Housing Coordinator Program and the PA Accessible Housing Program, a grant program for home modifications. www.sdhp.org

711 East Lancaster Ave.
Downingtown, PA 19335
(610) 873-9595 (voice)
1-877- 550-7347 (toll free)
(610) 873-9597 (fax)

National Domestic Violence Hotline

1-800-799-7233 (SAFE)
1-800-787-3224 (TTY)

Pennsylvania Coalition Against Domestic Violence

Among the services provided to domestic violence victims are: crisis intervention; counseling; accompaniment to police, medical, and court facilities; and temporary emergency shelter for victims and their dependent children. Prevention and educational programs are provided to lessen the risk of domestic violence in the community at large.

1-800-932-4632 (in Pennsylvania)
1-800-537-2238 (national)

ARE YOU A LANDLORD?

Community Housing Solutions:  **Connecting Landlords and Tenants**

CHS works with individuals and families to secure permanent housing and partners with area Rapid Re-Housing programs to support them in their tenancy.

CHS can:

- ▶ Decrease your unit turnover time and advertising costs
- ▶ Support you in serving our clients
- ▶ Provide you a way to give back to your community, and maintain your business

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Helping individuals achieve housing and financial stability for 50 years

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FOR MORE INFORMATION www.chslancaster.org | 717-358-9381 | chs@tabornet.org



Bernard Kleina

