

Massachusetts Consumer Guide to TENANT RIGHTS AND RESPONSIBILITIES

When Looking for an Apartment

1. Document EVERYTHING. Keep good records of every documentation relating to your tenancy.
2. A Finder's Fee could be charged ONLY by licensed real estate broker or salesperson for finding apartments. This fee can be any amount, but has to be disclosed before payment. Make sure to check the rates before getting started.
3. Calculate the anticipated costs of utilities (i.e. heat, water, electricity, gas). Usually you can ask utility companies for the average expenses over the past year of a specific apartment.
4. Meet the landlord in person, talk with prospective neighbors, and check the apartment to ensure that it is in acceptable condition.
5. Read this information sheet and evaluate your tenancy agreement carefully. Do research if needed!

Types of Tenancy

A **Tenant with a Lease** is one who signs a lease to rent a particular apartment for a specified period of time. Under this tenancy, the landlord cannot increase the rent and/or evict the tenant unless the tenant violated the lease agreement. The tenant is legally obligated to pay the rent until the end of the lease.

A **Tenant at Will** is one who occupies a rented apartment without a lease, but pays rent periodically (typically monthly). Either the landlord or the tenant may terminate this arrangement at any time by giving written notice of 30 days or one full rental period in advance, whichever is longer. No reason is required.

Tenants' Rights

Rights Against Unlawful Discrimination

Massachusetts law prevents discrimination in housing on the basis of race, religion, natural origin, age, ancestry, military background or service, sex, sexual preference, marital status, blindness, deafness, or children.

Rights Against Unlawful Entry

The landlord cannot enter the apartment without the tenants' agreement within tenancy unless the tenants are evicted under an eviction execution.

Rights Against Retaliation

The landlord cannot raise the rent in response to the tenant exercising his/her legal rights.

Habitability Rights

The tenant is entitled to a safe and habitable living environment throughout the entire tenancy. The landlord must keep the apartment temperature at least at 68°F during winter months.

Shutoff Rights

The landlord cannot cause the removal or shutoff of the utilities except for a temporary period during repair or emergencies.

Payments in Tenancy

Pre-payment: can only include the first and last month's rent, one month's security deposit, and the purchase and installation costs for a lock and keys. Receipts should be given to the tenant for every item of the pre-payment.

Security Deposit: money to ensure the landlord that the rent will be paid and other responsibilities related will be performed. It cannot be greater than the first month's rent, and must be transferred to the new landlord if there is one. It can be deducted for unpaid rents, unpaid increase in real estate taxes (if the tenant was obligated to pay under a valid tax escalator clause in the lease), or reasonable damage repair fee. If there are damages, the landlord must provide you with a list of damages and receipts for repairs. Additionally, if the landlord fails to:

- 1) obey the Security Deposit Law
- 2) deposit the security deposit into a separate, interest account
account in a Massachusetts bank
- 3) transfer the security deposit and/or the last month's rent to the new landlord

- 4) send out a receipt within 30 days of receiving the pre-payment
- 5) send out a list of damages and corresponding bills or invoices
- 6) return the security deposit within 30 days after the termination of the tenancy,

then the tenant is entitled to immediate return of the security deposit (plus interest) which cannot be deducted on damages.

Late-Payment Penalty: cannot be charged until 30 days after the due date, however, the eviction process can be initiated immediately, even if the rent is only one day overdue.

Interest: must be paid on both the security deposit and the last month's rent to the tenant. The tenant is entitled to either 5% interest or whatever lesser amount is received from the bank holding the money. The interest is payable to the tenant each year on the tenancy anniversary and can only be delayed for 30 days.

Rent Withholding: The Massachusetts Supreme Judicial Court ruled that when a landlord fails to maintain a dwelling in habitable condition, a tenant may properly withhold a portion of the rent from the date the landlord has notice of this breach of warrant of habitability. This should be dealt with caution since the landlord may initiate eviction of the tenant for non-payment of rent.

Eviction

A landlord cannot lock out or throw out the tenant without going through the legal eviction process and receiving a judge's order. The tenant may consider consulting an attorney when facing eviction.

If the tenant is evicted for non-payment of rent, s/he may terminate the eviction process by paying the landlord's entire lawsuit charges and the rent owed (plus interest).

Rental Agreement

The landlord must include the following in a written rental agreement:

1. The names, addresses, and telephone numbers of the owners and other persons who are responsible for the care, maintenance, and repair of the property;
2. The name, address, and telephone number of the person authorized to receive notices of violations of law and to accept notice of a lawsuit on behalf of the owner;
3. The amount of the security deposit and disclosure of the rights under the Security Deposit Law.

The landlord also must give the tenant an executed copy of the rental agreement within 30 days of the tenant signing it (940 CMR 3.17(3)). You and the landlord may agree verbally to the terms of your tenancy, but it is safer to get a written agreement to avoid future disputes.

It is highly recommended to request a Statement of Condition from the landlord before moving in, which lists out the current condition of the apartment and may avoid future disputes on damage deductions and such. Take photos of everything before moving in!

Moving Out

1. Schedule a mutual inspection of the apartment with the landlord and review the Statement of Condition;
2. Take, date, and save pictures of the apartment;
3. Leave the landlord your forwarding address for security deposit payback.

Check the Massachusetts official brochure for more details:

<http://www.mass.gov/ocabr/docs/tenantsrights.pdf>

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