

What Are My Rights as a Tenant?

Tenants have rights and responsibilities when renting a home in Virginia. Before signing a lease or moving into a new home, you should read and understand the terms of the lease contract.

All landlords must give new tenants a Statement of Tenant Rights and Responsibilities.

- Both the landlord and tenant must sign a form acknowledging that the tenant has received the statement of tenant rights and responsibilities.
- Landlord and tenant are bound by the lease contract on the date that both landlord and tenant sign the Statement of Tenant Rights and Responsibilities.
- Landlords have to give a copy of the signed Statement of Tenant Rights and Responsibilities and a copy of the written rental agreement to the tenant within one month of the effective date of the signing date.

Statement of Tenant Rights & Responsibilities for mobile home residents.

Park owners must provide residents with a written statement of tenant rights and responsibilities within one month of the effective date of the rental agreement. The landlord cannot file or maintain an action against the tenant for any alleged lease violation until the landlord has provided the statement to the tenant.

You have the right to a written lease.

Landlords must offer written leases. The lease is a contract stating what the landlord will do and what you as the renter will have to do. The law will generally make you follow all the terms of the lease, so make sure you clearly understand what you have agreed to do. Pay careful attention to the following items:

- How much the rent will be per month.
- How much the security deposit will be, if there is one.
- What day the rent is due and when it is considered late.
- How much is the late fee, if you are late with the payment.
- How long the lease runs; month to month, six months, a year.
- How many days advance notice you have to give if you wish to move.
- Whether the electric, heat, water and sewer are included in the rent.
- Whether a refrigerator, stove, air conditioner, or other appliances are provided by the landlord.
- What you must do to get repairs made.
- Any specific rules or other charges.
- If no written lease is offered, the law has a default lease that will apply. This is a 12-month lease with no automatic renewal. Rent is paid in 12 monthly payments due on the first of the month and late after the fifth of the month. *There are no oral leases in Virginia.*

You have the right to know about certain property conditions.

Landlords must reveal certain information to tenants, including:

- Any visible evidence of mold. (§55.1-1215)
- The name and address of the owner or property manager. (§55.1-1216)
- If the property is in a noise or accident potential zone. (§55.1-1217)
- The existence of defective drywall. (§55.1-1218)
- If the property was used to manufacture methamphetamines. (§55.1-1219)
- Notice of sale or foreclosure of the property. (§55.1-1216, 1237)

You have the right to inspect the property at move-in and move-out.

The landlord has the right to ask for a security deposit. A security deposit cannot be more than two months' rent. Within five days of move in, the landlord and tenant must do a written move-in inspection. Within five days, the tenant has the right to object to anything in the move-in report. Within three days of move out, the landlord and tenant must do a written move-out inspection.

You have the right to a refund of your security deposit at the end of your tenancy.

Within 45 days of moving out of the property, the landlord must return the deposit and/or give the tenant a written list of how the deposit was used. A deposit may be used only for unpaid rent, late fees, other charges in the lease, and damages more than reasonable wear and tear.

You have the right to receipts of your rent payments and a written statement of all charges and payments.

Upon request, a tenant is entitled to a written receipt of rent paid by cash or money order. Upon request, a tenant is entitled to a written statement of all charges and payments over the past 12 months. (§55.1-1204-D/I)

You have the right to privacy.

A landlord may not release information about a tenant without consent, except under certain conditions. (§55.1-1209).

You have the right to quiet enjoyment of the property.

Tenants have the right of "quiet enjoyment" of the property. Quiet enjoyment is a right to the undisturbed use and enjoyment, free of unreasonable interference by the landlord. A landlord may enter a rental unit without a tenant's consent only in an emergency. A tenant cannot unreasonably withhold consent to the landlord to enter a rental unit. A landlord may not abuse the right of access or use it to harass a tenant. Except in an emergency, a landlord must give a tenant notice of intent to enter and enter only at reasonable times. Unless impractical or unless a tenant has requested maintenance, a landlord must give a tenant at least 72 hours' advance notice of intent to enter the premises for routine maintenance.

You have the right to fit and habitable premises.

A tenant has the right to a fit and habitable rental unit. The landlord must make all repairs needed to keep premises fit and habitable. (§ 55.1-1220-21). Tenants also have the right to be notified of properly notified before pesticides are applied in the premises.

You have the right to be heard by the court before the landlord can evict you.

A landlord may not evict a tenant without following the court eviction process. If a landlord takes the law into their own hands and evicts a tenant without going through the courts, the tenant can file an "Unlawful Exclusion" lawsuit to get back into the home. But this hasn't stopped some landlords from cutting off utilities or changing the locks to force tenants out. Tenants who have been unlawfully excluded are able to recover \$5,000 in statutory damages or four months' rent, whichever is greater, in addition to actual damages and attorney's fees. Moreover, courts are required to schedule hearings for illegal lock out cases within five days.

5-day POQ notice

All landlords must provide tenants who fail to pay rent on time a 5-day "pay or quit" notice. Landlords who own five or more rental dwelling units must also allow the tenant to enter into a repayment agreement to pay off the balance owed.

You have the right to redemption of the property.

After an eviction lawsuit for nonpayment of rent is filed, a tenant has the right to pay to a zero balance on or before the court date and have the lawsuit dismissed. After a court issues a judgment of possession, a tenant has the right to pay to a zero balance up to 48 hours before the Sheriff's eviction and have the eviction cancelled. Landlords are required to provide clear, specific language explaining the right of redemption in all termination notices.

Special rules for victims of domestic violence.

There is a special law about how you may enter into a rental agreement if you have been the victim of domestic violence. Here is the most likely situation, and how it works:

1. You have been living with someone who has abused you;
2. You are not a tenant or authorized occupant listed on the lease, but have been living there; or
3. You obtain a final Protective Order in which the judge orders the abuser to stay away from you AND gives you exclusive possession and use of the rented premises.

If you in fact want to stay living there, you can give a copy of the Protective Order to the landlord and submit an application within ten days after the Protective Order was issued to become a tenant in the same place. If the landlord decides they don't want to accept you as a tenant, they have to give you written notice that your application was rejected. You then have 30 days after that notice to move out. If, on the other hand, you don't apply to become a tenant within ten days and don't give the landlord a copy of the Protective Order, you have to move out no later than 30 days after the Protective Order was issued.

Special Rules for Armed Service Members.

Any member of the armed forces of the United States or a member of the National Guard serving on full-time duty or as a Civil Service technician with the National Guard may terminate the lease early if the tenant:

1. Has received permanent change of station orders to depart 35 miles or more away from the property;
2. Has received temporary duty orders in excess of three months' duration to depart 35 miles or more away from the property;
3. Is discharged or released from active duty with the armed forces of the United States or from his full-time duty or technician status with the National Guard; or
4. Is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

A tenant who meets this criteria may end the lease early by giving written notice to the landlord at least 30 days before the next rent payment is due. The lease end date cannot be more than 60 days before the military departure orders. The tenant must also give the landlord a copy of the official notification of the orders or a signed letter confirming the order from the tenant's commanding officer. The landlord must prorate the final rent payment to the date of termination and cannot charge any liquidate damages.

Landlords are no longer permitted to include lease provisions requiring tenants to waive their rights under the Servicemember Civil Relief Act (SCRA). Among other things, the SCRA provides active duty service members the right to a 90-day delay of any eviction case filed against them. This often makes the difference between whether the service member has a default eviction judgment against them (i.e., an eviction judgment entered without the service member being present) or a dismissal of the case.

What Are My Duties as a Tenant?

In addition to rights, tenant also have certain duties.

Pay reasonable application fee and security deposit.

Tenants may be charged a nonrefundable application fee of no more than \$50 (not including third party costs for a background check) and a refundable application deposit. If the tenant does not rent the unit, the application deposit must be returned, minus any actual costs or damages. (§55.1-1203) Unless specifically agreed to by the landlord, do not use the security deposit to pay your last month's rent as your landlord could bring an eviction action when the rent is not paid timely.

A tenant also may be required to have and pay for damage insurance OR a security deposit not to exceed two months' rent. *A tenant cannot be required to pay for both.* (§55.1-1206) If the tenant does not rent the unit, the deposit must be returned, minus any actual costs or damages. (§55.1-1203)

Pay rent on time.

Unless the lease says otherwise, rent is due in equal payments each month. (§55.1-1204-B/G) If rent is not paid on time, the tenant must pay a late fee if the lease requires one. A late fee can be no more than 10% of the monthly rent, or 10% of the unpaid balance, whichever is less. (§55.1-1204)

Manage renter's insurance policy

A tenant may be required to have and pay for renter's insurance.

Maintain Fit and Habitable Premises.

Keep your rented space and plumbing as clean and safe as conditions permit.

- Make reasonable efforts to keep the premises so as to prevent accumulation of moisture and growth of mold. Promptly notify the landlord of excess moisture and growth of mold.
- Use all utilities and appliances reasonably;
- Get rid of trash;
- Do not destroy or damage the property, or allow household members or guests to do so;
- Do not disturb your neighbors, or allow household members or guests to do so;
- Follow the lease and reasonable rules of your landlord.
- Make reasonable efforts to prevent insect or pest infestation, and promptly notify your landlord if an infestation occurs.

My Rental Unit Needs Repairs

Your landlord has a duty to keep the premises fit and habitable. If repairs are needed, the first step is to notify the landlord in writing. This can be a letter, email, text message, or, if your landlord uses one, the property management app. You must then give your landlord a reasonable amount of time to make the repairs. If the problem is an emergency, such as no heat in winter or a sewage problem, the landlord must fix it immediately. You must also give the landlord access to your home to make the repairs.

If the landlord still refuses to fix a health and safety issue, there are two ways to get the needed repairs.

Tenant's Assertion: Take your landlord to court and get a judge to order repairs.

If your landlord does not make repairs, you can file what is called a tenant's assertion in court. To file a tenants' assertion, follow these steps:

1. Provide written notice to your landlord asking for the repair.
2. Wait a reasonable period of time for the landlord to do the repair.
 - What period of time is “reasonable” depends on the type of repair needed. For example, raw sewage, like an overflowing toilet, should be fixed immediately. Broken stairs should be fixed within a couple of weeks.
3. If the landlord has not made the repairs, fill out a “Tenant’s Assertion and Complaint”, form #DC-429. On the form, you can ask the court to:
 - Order repairs completed;
 - Order repairs and return of some (or all) of your rent money for having to put up with bad conditions; or
 - Order your lease ended so you can move out without paying future rent.
4. Within 5 days of the date when your rent is due, pay your rent into escrow with the court.
 - Take your rent payment to court and let the clerk know you would like to pay it into “escrow”. You will need to tell the clerk your case number. Bring a copy of the “Tenant’s Assertion and Complaint’ with you.
5. You should file the petition in the General District Court for the county or city where the property is located.
6. Before the hearing date you should get together your list of problems, pictures of the problems, a copy of your notice to the landlords, a copy of your lease, and your rent receipts. You can ask the landlord for a copy of your tenant ledger for an itemized record of paid rent.
7. On your court date early and let the clerk know you are there. The judge will hear from both sides. You can ask the landlord questions and the landlord can ask you questions. The judge will decide who wins and can either order the landlord to make repairs, order the landlord to return some or all of your rent money, or end the lease early.

Repair and Deduct: Have certified contractor complete the repairs and deduct the cost from the rent.

Tenants have a new option to get repairs, called “repair and deduct.” If your landlord fails to make repairs affecting health and safety, you can contract with licensed contractor to get work done and deduct the cost from the rent. Follow these steps:

1. Provide written notice to your landlord of the need for repairs.
2. Give your landlord 14 days to start the repairs. You must give your landlord reasonable access to your home to do the repairs.
3. If your landlord does not start repairs within 14 days, you can contract with a licensed contractor to do the repairs.
4. You must provide your landlord with an itemized statement and receipt for the work.
5. Then you can subtract up to \$1,500 or one month of rent, whichever is higher, from your next rent payment. You can deduct the value of the repair even if the repair was donated or paid for by a third party on your behalf.