



HOUSING

Renting: Leases

no. 9.904*by Student Legal Services, A. Morrow and K. Daley¹*

Quick Facts...

A written lease protects you and the landlord by setting up rules.

If you are presented with unclear clauses in the lease, rewrite them in clear, precise terms.

The lease should specify who is responsible for all types of repairs, including appliances, plumbing, heating, wiring and external building repairs.

The lease should determine your right to sublet, landlord's liability for damages, rules of behavior, landlord's right of entry, procedures for eviction, and information on damage deposits and promissory notes.

*Putting Knowledge to Work*

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Most landlords require you to sign a lease that protects both you and the landlord. It protects you from eviction on short notice, increases in rent, and changes in rules during the lease period. A lease also sets up rules that both you and the landlord are expected to follow. If the rules are broken by one party, the lease may be ended by the other party. Before signing a lease, review it for:

- the amount of rent per month and who is responsible for utility payments;
- the length of the rental period;
- whether a security deposit is required and the amount;
- who is responsible for repairs;
- which repairs will be done by the landlord;
- a copy of rules of behavior, if any; and
- whether subleasing is allowed, and under what terms.

Lease Terms

If you are confronted with a lease that contains any of the following clauses, try to rewrite them or delete them from the lease. Simple revisions can be inserted in ink and initialed by you and the landlord.

Accepting of Premises

If the lease states that the renter accepts the premises “as is,” forcing the landlord to fix or correct any defects that may have existed at the time of the signing of the lease will be much more difficult to do in the future. Therefore, get in writing promises by the landlord or manager to clean up or make repairs. A written promise to repair binds the landlord and also proves the damage was there when you moved in.

If there is a clause that says, “Tenants acknowledge that the premises are in good order and repair at this time,” rewrite to read: “Premises are in good order and repair except the items listed on attachment A.” Attach a damage sheet and be specific.

It is important to submit the damage sheet within the time specified withing the lease; however, if you miss the deadline, submit it as soon as possilbe thereafter. Be as detailed about the defects and uncleanliness as possible. If no list is provided, create one yourself. Keep a copy of the damage sheet and give one to the landlord.

Duty to Repair

Every lease should state who is responsible for repairs during the term of the lease. If nothing is stated, you may find at the end of the term that the damage deposit is expected to cover a job that you assumed was the landlord's responsibility.

If a lease clause says, “The tenant agrees to keep improvements upon said premises (sewer connections, plumbing, wiring and glass) in good repair at

The attorney's at CSU's Student Legal Services office have configured many property management leases in the Fort Collins area. These comments are posted at www.sls.colostate.edu.

Security Deposit

If a security deposit is paid, the amount should be in writing. A damage deposit, pet deposit, or cleaning deposit is still a security deposit and will be treated as such by Colorado law.

Colorado law provides that a person 18 years or older can enter into legal contractual obligations, be legally bound to the terms of the contract, and can sue or be sued. The rental lease is a contract. Read the lease thoroughly before signing. Understand your and responsibilities.

This material should not be used as a substitute for seeking needed advice from attorneys and other qualified advisors.

Attorney Fees

Beware of a lease clause which obligates only the tenant to pay the attorney fees and court costs of the landlord should there be a dispute. A fair lease term will obligate the losing party in any litigation to pay the prevailing party's attorney fees and court costs.

For more information, see fact sheets 9.903, Renting: Security Deposits; 9.905, Renting: Evictions and Landlord Liens; and 9.906, Renting: Location, Selection and Roommates.

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the expense of the lessee (renter) ... to keep the cesspool, greasetrap and ashpits clean," rewrite it to read: "Landlord shall be responsible for necessary repairs to the sewerage, wiring, plumbing and appliances, unless such damage is caused by the negligence of the tenant."

Subletting

Subletting is when you find someone to take over the lease; however, you will remain responsible for the performance by the new tenants of all the terms of the lease until the original tenancy expires. For this reason, subletting is extremely risky and should be avoided. Instead, negotiate with the landlord to allow replacement tenants to sign a new lease and assume all of your obligations under the previous tenancy. Then, get a written release from the obligations of that tenancy from the landlord.

A lease may state that a tenant has no right to sublet or assign the lease, a tenant can sublet, or a tenant can sublet only with permission of the landlord.

Landlord's Liability for Damages to the Tenant

Some leases include a provision that states the landlord is not responsible for injury to the tenant or damage to the tenant's property from any cause, even if the cause was a defect in the building or some negligence by the landlord. For instance, a leaking pipe may cause water damage to your books or records. If the owner is at fault, you still may be able to recover damages in a court suit, regardless of what the lease says.

If a lease clause reads, "The landlord is not responsible for damage to the tenant's property or personal injury from any cause whatsoever," then add the words "unless such damage was caused by the negligence of the landlord."

Purchase a tenant's insurance policy to protect the value of personal belongings from such damage as fire, theft, etc. Also get liability insurance for personal injury. This insurance pays damages if, for example, your dog bites someone or a visitor falls down a stairway.

Rules

Leases may include rules such as "no pets" and "quiet after 10 p.m." Rules should be written clearly, known by the tenant in advance, and attached to the lease.

If a lease clause reads, "Tenant agrees to comply with all printed regulations now made or subsequently furnished," delete the words "subsequently furnished."

You should know if there is a charge for overnight visitors, when a landlord may enter the apartment, and if advance notice is necessary. If a clause reads, "Landlord reserves the right to enter the premises under reasonable conditions for the purposes of official business," it should be rewritten to protect your privacy. Include a definition of the terms "official business" and "reasonable condition" and add "with advance notice to, and consent by, the tenant except in the case of emergency."

Eviction

Colorado law requires a landlord to go through certain procedures if a tenant does not vacate the premises voluntarily. The court suit, known as forcible entry and detainer, gives you the opportunity to be heard in court and argue that you are still under the lease. Some leases sound like the landlord is going to come into the apartment and forcibly eject you, but no lease may eliminate your right to a court hearing. In Colorado, a sheriff may bodily remove a tenant and belongings, but only after a court case has been won by the landlord.