



MONROE COUNTY

SHERIFF'S OFFICE

LANDLORD/TENANT

EVICITION INFORMATION

PAMPHLET

## GUIDE FOR RESIDENTIAL TENANTS

\*For those who rent a residential dwelling unit, house, apartment, condominium, mobile home and lot, duplex, etc. (If you own a mobile home and rent space in a park, these guidelines do not necessarily apply.) Apartment complexes of 5 or more adjoining units are licensed and regulated by the Division of Hotels and Restaurants, of the Florida Department of Business Regulations.

### INTRODUCTION

This brochure attempts to provide you, the tenant, with general information and guidelines about your rights and responsibilities in relation to your landlord.

It is **not** intended to be a summary of the Landlord/Tenant law in Florida. A copy of the law is available to you, at the law library located at your county courthouse or most public libraries. The laws are printed in the **Florida Statutes, as Part II of Chapter 83.**

**WARNING:** Statute books are compiled every **two years**, but changes in the law are possible **every year**, so be sure that your information is up-to-date.

### BEFORE YOU RENT

**You are an equal party with the landlord.**

Remember that you never **have** to agree to **any** lease arrangement. The landlord is only offering space to you. If you rent it, be sure you thoroughly understand the "terms" of the lease before you agree. If you don't understand the deal, **don't agree to it.** If you do agree, then expect to be bound by your agreement. Remember, there is **no** law mandating a grace period for cancellation.

### ORAL LEASES AND WRITTEN LEASES

A "lease" is an agreement to rent real property and may be either written or oral. Obviously, an oral lease is often more subject to "Did-Didn't!" arguments than a written one. If possible, get it in writing.

If you don't have a written lease, the time for your rental payment (ie. weekly, monthly, etc.) determines the length of the agreement. All other terms are either those which are "law" (set by statutes) or are part of the oral arrangement between you and the landlord.

It is generally better to have a "written" lease even if it is only a copy of a letter from you to the landlord stating your respective rights and obligations. Always make a copy for yourself of any paper you give to the landlord. Remember, under Florida law all notices to and from the landlord or the tenant must be in writing, even if the rental agreement is oral. The landlord is not required to terminate your lease if your employer transfers you to another geographical area, unless there is a clause in the lease specifically stating this.

### INSPECT THE PREMISES

Both you and the landlord have responsibilities for maintenance of the premises. Your landlord must provide a place which is fit to live in. You are required to keep the premises in good condition and occupy it as a peaceable neighbor.

Most landlords require that you leave the place in as good condition as you found it. Before you move in, check it out. Make a list of damaged items or areas, worn rugs, broken fixtures, etc., and give it to the landlord (**keep a copy**) when you sign or move in. This may eliminate or minimize later disputes when memories have dimmed.

### DEPOSITS AND/OR ADVANCE RENT REQUIREMENTS

A landlord may require the "last month rent in advance" (or week, quarter, etc.). That's for security. If you walk away, the landlord has a month's rent even if you can't be found.

If a security deposit or advance rent is required (they are much the same thing, really) the landlord is under a legal obligation to do one of the following:

- 1) The money may be held in a separate account, either interest-bearing or non-interest bearing, in a Florida banking institution and that money may not be commingled with any other funds of the landlord. If the landlord places the money in a non-interest bearing account, no interest is due to the tenant; however, if it is in an interest bearing account, the tenant is entitled to 75% of the interest accrued or 5% simple interest per year, whichever the landlord selects. The provision only applies to rental agreements after 6/22/83,
- 2) Or the landlord may post a surety bond with the clerk of the county court and the tenant is entitled to 5% simple interest per annum on the deposit. If the landlord has five or more rental units, the tenant must be notified within 30 days of receipt of the money regarding how it is being kept, (and where) and what interest, if any, the tenant will receive. (For more details, please consult the law).

It is up to the landlord whether or not to collect a security deposit or any other kind of deposit (ie., pet or damage). If non-refundable, it must be so stated in the rental agreement.

With regard to all such deposits, the law is somewhat complicated. You should consult the statutes to see how they apply to your set of facts and, if you still can't make sense of it, get legal advice.

### RETURN OF SECURITY DEPOSIT

Once a tenant vacates the premises, at the end of the rental notice to the landlord, the landlord has **15 days** to refund the security deposit or send a certified letter to the tenant imposing a claim on the deposit and stating the amount and the reason for the claim. If this notice is not sent as required, the landlord forfeits his right to impose a claim. Should the tenant, however, fail to give the landlord appropriate notice prior to vacating, such failure may release the landlord from this obligation. Unless the tenant objects in writing to the landlord with **15 days** of receipt of the claim letter, the landlord must return the deposit less the landlord's claim within **30 days** of the date of the landlord's claim notice. After the tenant objects, should the landlord and the tenant not be able to reach an agreement, the matter may be taken to small claims court.

## SUMMARY

Be sure you understand clearly:

The period of your lease (for how long you are obligated):

The amount of rent you will pay and when it is due;

Any special duties on either you or the landlord. (If in doubt, spell it out. And don't leave language in a lease that doesn't really reflect your agreement! The lease says, "No pets." The agent says, "That's standard, but you can keep your cat." Strike it out or find another place.)

## WHILE YOU ARE A TENANT

The landlord is required by law to:

Comply with building, housing and health codes;

Keep the roof, windows, screens, floors, outside walls, etc., in good repair;

Make reasonable provisions for: the extermination of rats, bugs, and wood-destroying organisms, locks and keys, heat during winter, running water, hot water, and the removal of garbage from the premises. This applies only to 3 or more adjoining units (ie., triplexes, quadraplexes, etc.). This does not mean the landlord is obligated to pay for utilities, water, fuel, or garbage removal. You as a tenant, must:

Also comply with housing and health codes;

Keep the place clean;

Remove garbage from the unit you occupy;

Keep the plumbing in repair;

Not abuse the electrical, plumbing, heating, air conditioning, and other facilities furnished by the landlord;

Not deface or damage the premises; and generally occupy the unit without disturbing the peace.

## WHAT IF THE LANDLORD NEGLECTS THE PREMISES?

If the landlord refuses or neglects to do what the law or the lease requires, and the failure is **substantial** and **material**, you may be able to withhold the rent. But the landlord must receive **written** notification by certified mail from the tenant at least at least **7 days** before the rent is due, and allow time to remedy the problem. Be sure to keep a copy of the letter for your records.

If it isn't corrected after the **7 days** notice, and you do withhold rent, the landlord may take you to court to collect it. **Under these circumstances, you must pay the rent into the court registry pending the judge's determination of the case.**

## AND WHAT IF YOU DON'T COMPLY?

Conversely, the landlord may give you **7 days written notice** to meet your obligations. If you continue in non-compliance, the landlord may terminate the lease at the end of the 7 days and bring a legal action to evict you if you don't leave.

## ACCESS TO THE PREMISES

Generally speaking, once you lease a dwelling unit, "your home is your castle". Your right to possession is much the same as if you owned it. The landlord can, however, enter at reasonable times to inspect, make repairs, supply agreed services, or show it to a prospective purchaser, tenant, etc. The landlord may enter the dwelling unit after giving reasonable notice to the tenant and at a reasonable time for the purpose of making repairs to the premises.

The landlord may **enter at any time** when:

You have given your consent, or

There is an emergency, or

You unreasonably withhold consent, or

If you are absent for an extended period (but only to "protect or preserve" the premises).

## TERMINATION

An oral agreement (or written one where no termination date is stated) is ended by either party giving written notice to the other of an intention to end it.

If the rent has been paid weekly, notice must be given at least **7 days** before the next rental payment is due. If that notice is given in that time, the lease is terminated at the next (and last) payment date. If it was paid **monthly**, notice is required at least 15 days before the next rental payment date... if **quarterly**, **30 days** notice... if **year-to-year**, **60 days** notice. This notification requirement also applies if the rental agreement is being altered or modified, ie., increase in rent, change in who is responsible for repairs, etc.

A written lease usually specifies a termination date. On that date, the lease is over and the tenant must leave. No notice from or to the landlord or tenant is necessary.

However, any lease may be **extended** by agreement of both parties under the old terms (as to rental, etc.) or modified by mutual agreement. In either case, the agreement to extend should be written down — on the face of the lease, by letter, etc. (keep a copy).

A tenant may also "hold over" will, unless otherwise agreed upon, be at the same rental as the original lease **but** the tenancy no longer has a definite term of life and it becomes subject to the notice requirements which apply to an oral lease or one with no definite terms.

## EVICITION

If the tenant holds over after the expiration of the lease (without permis-

sion) or if the landlord has terminated the rental agreement for any of the reasons allowed under the Landlord and Tenant Act and the tenant does not move, the landlord can start eviction procedures. In the case of non-payment of rent, the landlord must serve the tenant with a written notice allowing **3 days (excluding weekends and legal holidays) in which to pay the rent or move**. In order to gain possession of the dwelling, the landlord must file suit in county court, providing the court with a copy of the **3 day** notice. The tenant then has **5 days, excluding weekend and legal holidays**, to respond in writing to the court. If the tenant does not respond or a judgment court will issue a writ of possession to the sheriff and the tenant will have only **24 hours** notice prior to eviction.

Florida law does not allow the landlord to use self help eviction. The landlord is not allowed to:

A. Shut off the utilities, water, gas, electricity, etc., even if the service is in the landlord's name.

B. Change the locks or use any bootlock or similar device.

C. Remove the outside doors, locks, roof, walls, or windows.

D. Remove the tenant's personal property from the dwelling unit unless proper legal action has been taken.

## RETALIATORY CONDUCT

The landlord is not allowed to use a rent increase or evict a tenant solely in retaliation because the tenant has complained to a governmental agency about a code violation. The tenant may present evidence of this conduct as a defense in an action for possession of the dwelling.

## CONCLUSION

This guide does not attempt to cover every matter involved in the landlord/tenant relationship. Please go to the Law Library located at the county courthouse or check at your local public library for a copy of the law. **If you want to file a complaint please contact the clerk of courts civil division at 305-294-4641 or contact your local legal aide office.** But, keep in mind that this Division **can not** give you legal advice or interpret the law for you.

MONROE COUNTY SHERIFF'S OFFICE CIVIL DIVISION

PLEASE CALL FOR OUR LOCATION

KEY WEST OFFICE 305-295-3675

MARATHON OFFICE 305-289-2430

PLANTATION KEY OFFICE 305-853-3211

TOLL FREE: 1-800-273-COPS