

Evictions

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What is an eviction?

An eviction is a special suit filed in the Justice Court Precinct in which part or all of the property is located. A landlord can evict if a tenant does not pay rent, does not pay the full amount, or pays it late. The landlord can also evict if the tenant does not obey the agreements in the signed lease, or if the tenant damages the property. An eviction suit is for the possession of a premise and any delinquent rent not to exceed \$10,000 (pro-rated to the date of judgment, not the end of the month). Attorney fees, court costs and interest may be added to that amount. No damages can be awarded including, for example, late fees, bad check fees, reletting fees, or damages. A separate suit must be filed.

Notice to vacate?

Ordinarily, a demand for possession of the premises ("notice to vacate") must be given in writing at least three days prior to filing the eviction. A thirty day notice is required only when the landlord is ending a month-to-month tenancy or when giving notice that he will not renew an existing lease (and is not claiming that the tenant breached the lease). Some leases require a longer or allow a shorter period of time, and certain tenancies have different notice requirements under the Texas Property Code.

Can my landlord keep my security deposit?

The landlord must ordinarily refund a security deposit or give the tenant an accounting of the security deposit, within thirty (30) days after the tenant surrenders the premises. A requirement that a tenant give advance notice of surrender of the premises as condition of refund of the security deposit is effective only if underlined or printed in conspicuous bold print in the lease. The landlord may deduct damages and other charges for which the tenant is legally liable, except for ordinary wear and tear. The landlord must give the tenant an itemized list of all deductions from the security deposit, along with the balance of the security deposit, if any.

Can my landlord lock me out?

The landlord may legally change the lock on the tenant's door when rent is delinquent, but must first give the tenant at least three days advance written notice of intent to change the locks if the rent is not paid. This is usually done as an attempt to make contact with a tenant when other measures have failed. The Landlord must also leave a statement attached to the outside of the door explaining where the tenant may acquire a new key. By law, the landlord must give the tenant the key when requested (no matter time of day or night). The landlord must allow access to the rental unit -- even if the tenant has not paid rent. If the landlord refuses to hand over the key you go to the Justice of the Peace and request a same day Writ of Re-Entry.

Can my landlord cut off my utilities?

There are limited allowances that permit a landlord to temporarily cut off utilities. Very few landlords meet the qualifications. If a landlord has illegally cut a utility service, you may be able to get a court order for them to turn it back on. Whether you are a landlord or tenant, you should consult an attorney when it comes to utilities.

Can my landlord remove doors and windows in an attempt to force me out?

No. Landlord removal of doors, windows, furniture, fixtures, etc., in an attempt to make you move, is illegal. These items can only be removed for repair or replacement.

Is the landlord ever justified in seizing my property during an eviction?

Yes, but only if you are delinquent on the rent and the lease gives the landlord a lien on your property. Such a provision must be underlined or in bold print in the lease.

In seizing the property under a landlord's lien, the landlord may not take exempt property, but may remove non-essential items (TVs, stereos, VCRs, CD players), provided s/he can enter the apartment peacefully. But the landlord must follow strict guidelines set forth by state law. This involves a high level of liability.

Unless otherwise permitted in the written lease, any property seized by a landlord under a landlord's lien cannot be sold or disposed of. If the lease permits such a sale, the landlord must give the tenant 30 days written notice before the date of the sale. This notice must be sent to the tenant by both first class and certified mail, or Return Receipt Requested at the tenant's last known address.

Illegal Eviction?

If a landlord denies a tenant access to the apartment or if a tenant's property is removed without a court order, the landlord may have acted illegally if the removal is not pursuant of abandonment or a landlord's lien.

Where can I find more information on evictions?

Texas Statutes are available on-line at:

<http://www.statutes.legis.state.tx.us/>

Most laws about eviction and landlord-tenant matters are contained in the Texas Property Code as well as the Texas Rules of Court.



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EVICTION QUESTIONS?

How do I evict someone? –
IT'S MY PROPERTY!

How can they evict me? –
IT'S MY HOME!

Frequently Asked Questions

Provided by

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