

## CHAPTER 7

# Landlord and Tenant Rights and Duties

When renting a place to live, whether it is an apartment or a space in a mobile home park, you must be prepared to deal with landlords, rent agreements, privacy issues, eviction and much more. This chapter will explain renting issues and your rights and duties as a landlord or tenant under Oregon law.

Under Oregon’s **Residential Landlord and Tenant Act**, both landlords and tenants have certain rights and duties. Tenants have the right to a fit place to live, prompt repairs, reasonable privacy, and freedom from retaliation and discrimination. Landlords have the right to receive rent on time and to be notified of problems. Landlords also have a right to tenants who do not disturb others or damage the property.

Tenants who live in government-subsidized housing or who own mobile homes—also known as “manufactured dwellings”—in mobile home parks have additional rights. Tenants in these situations sometimes have special protection against eviction except for “good cause.” Tenants in mobile home parks have some protection in some cases against unfair rule changes. Other examples follow. (Several Tel-Law topics give more detail about the rights and duties of landlords and tenants. See Resources at end of chapter.)

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## Oregon Law

If you rent the place where you live, the Oregon landlord-tenant law applies to you, except in the following situations:

- If you live in a place because living there is required for your job;
- If you are buying the place where you live (unless you’re buying under a lease option and haven’t exercised the option);
- In certain farming situations;
- In a vacation rental; or
- If you live in an institution or care facility.

The law may apply to you even if you live in a motel or hotel. It **does not** apply if the hotel or motel is not your primary address, you are charged by the day, and you get maid service at least three times a week.

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The landlord has the right to enter rentals at reasonable times with good reason. However, the tenant must be given 24 hours' written notice, unless it is an emergency.

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### Discrimination

Landlords may not evict or refuse to rent because of sex, race, color, marital status, children, national origin, physical or mental disability, the need for a guide dog or other service animal, source of income, or because you've won an eviction case. Landlords cannot discriminate against you because you have been the victim of family abuse, sexual assault or stalking crimes. Some Oregon cities have adopted local ordinances prohibiting discrimination based on sexual orientation. In some cases, extra charges may be the result of discrimination. If you believe a landlord is illegally discriminating against you, take action immediately.

You may be able to get assistance from Oregon's statewide Fair Housing Hotline at 800-424-3247. You can file a claim with the Civil Rights Division of the Oregon Bureau of Labor and Industries. In some cases, the federal Housing and Urban Development Department (HUD) will accept claims. (See Resources at end of chapter and, for contact information for the Civil Rights Division, at end of Chapter 10. Also, listen to Tel-Law topic 1248, "Illegal Housing Discrimination.")

These organizations will investigate your claim and attempt to settle the dispute. Sometimes a lawsuit may be necessary. Tenants and prospective tenants who win these cases may be able to move into a place they were unlawfully denied or stay in a place after a landlord has attempted illegally to evict them. They also may be entitled to cash damages.

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## Moving In

Before you rent a place, make sure it meets your needs and you can afford it. Be sure you understand who is paying for heat, water, electricity and trash collection. You should inspect the place very carefully. Write down the condition of the walls, floors, doors, ceilings and fixtures, and keep this list. Talk to the landlord about problems right away. It's also a good idea to have a witness look at the place and take pictures before you move in. This will help you to enforce your rights for repairs or the return of your security deposit. Landlords also have the right to charge nonrefundable fees for certain things. (Listen to Tel-Law topic 1260, "Fees and Deposits," for more information.)

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### Your Rental Agreement

When you move in, you and the landlord will agree to the rent amount, where to pay it, and when it is due. These terms and any others you agree to are your **rental agreement**. Your agreement with the landlord does not have to be in writing, except in mobile home parks and in government-subsidized housing.

If you have a written rental agreement, be sure to get a copy of the agreement and keep it for your records. You also should get copies of rent

receipts and receipts for deposits you pay the landlord. Keep these for your records as well.

Some kinds of agreements are against the law! The landlord cannot rent you a place to live “as is,” for example, even if you are renting with an option to buy your place. The landlord cannot physically remove you without giving you written notice and a chance to appear in court. If your rental agreement is not in writing, the landlord cannot charge you with a late payment fee. The same is true if you have a written rental agreement that does not allow late fees. In mobile home parks, rental agreements entered into after October 31, 1997, may not require a monthly payment for the pets of mobile home owners residing there. The agreements can, however, require tenants to carry reasonable pet insurance.

The tenant is entitled to a rental that is kept in good repair, no matter how low the rent.

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## Rent

In most kinds of housing, the landlord has the right to raise rent. The landlord should do this by telling you, in writing, at least 30 days before the new rent goes into effect. However, there are exceptions to this rule. The landlord may not raise the rent if you signed a lease that fixes the rent amount for a specific term. The landlord cannot increase rent to retaliate against you for exercising certain tenant rights. If you live in government-subsidized housing, the landlord must follow specific procedures before raising the rent. (See Chapter 8 for information on housing programs.) If you live in your own mobile home in a mobile home park, you are entitled to a minimum of 90 days’ notice before a rent increase.

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## Deposits and Fees

Oregon landlords can require most tenants to pay deposits or fees for pets, security and cleaning. Deposits are refundable, but fees are not. The landlord is required to refund any deposit unless the landlord can account for all the charges that were made against the deposit. (See “Refund of Deposits,” page 87.) A landlord who charges both fees and deposits must deduct any charges first from the fees paid, and then, if any charges remain, from the deposit.

Some landlords also charge an application fee before letting you apply to rent a place. This fee covers the cost of investigating your credit and tenancy background and is refundable only if the landlord fills the vacancy before screening the applicant. The landlord must give the applicant a receipt for the fee and follow other rules to avoid liability for a refund and penalties. Ask before you pay, and be wary of paying very high application fees.

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## Privacy Rights

The landlord has the right to enter your place at reasonable times with good reason. The landlord must give you 24 hours’ notice before entering. If you ask in writing for repairs, you automatically give the landlord the right to come in without notice for the next seven days. In the letter

requesting repairs, the tenant can specify allowable times. The only exceptions to these rules are an emergency (such as a fire or flood) or if you have agreed in writing to let the landlord in without notice. Such an agreement must be separate from the rental agreement and signed by both parties. The landlord must pay you in some way for this privilege.

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## Needed Repairs

The landlord must keep your place and the surrounding property (such as hallways in an apartment building) in good repair. No matter how low the rent is, the tenant is entitled to the following:

1. Effective waterproofing and weather protection;
2. Hot and cold running water connected to a sewage system;
3. Safe drinking water;
4. Smoke detectors (Note: The tenant has a duty to test the detector regularly and to replace worn out batteries.);
5. Safety from fire hazards;
6. Appliances and air conditioning in working order if the landlord provides them;
7. Good ventilation;
8. Working keys, locks and window latches for all entrances and windows;
9. No garbage or rodents in or around your place;
10. Garbage containers and trash collection service, unless you agree otherwise in writing;
11. Adequate plumbing, heating and electrical equipment in good working order; and
12. Walls, ceilings, floors, stairways and railings in good repair.

If your place needs repairs, tell the landlord immediately. If this doesn't get results, write a letter. Make sure you keep a copy of the letter. If you still get no results, you may need legal help. If you have an emergency, such as a broken water pipe, and your landlord will not help, get legal advice immediately. You also may want to contact building inspectors, health inspectors or fire inspectors for your city or county.

Some tenants try to force landlords to make repairs by withholding rent until the repairs are made. This is a drastic step, and you should use it only in very limited circumstances. Oregon has a "repair and deduct" statute, but it has strict requirements and is very limited. This remedy should be used only after receiving advice from a lawyer.

If, **after getting legal advice**, you decide to withhold rent, save the money. If the landlord tries to evict you for not paying the rent on time, you may have to show the court you actually had the money to pay.

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## Moving Out

If you plan to move and you pay rent monthly, let your landlord know, in writing, at least 30 days before you move. You can give this notice on any day of the month. You still have to pay rent for the full 30 days after you give the landlord notice that you are leaving. If you do not pay, the landlord may deduct the rent from your deposit and might sue you in small claims court. However, in some cases, the landlord may let you move early without paying for the full 30 days.

There are some exceptions to the 30-day notice requirement, such as if a government agency posts your home as unsafe to live in. Get legal advice right away in this situation.

If you move out early, the landlord must make reasonable efforts to find a new tenant. You should not pay for any time a new tenant lives in the place.

You should clean your place, remove your possessions and haul away your garbage when you move. Take pictures and notes to show what you did to clean the place. Have a witness with you if you think that the landlord will later accuse you of leaving a mess. If you do not clean the place, the landlord can keep some or all of your deposit. The law requires that you leave the place clean and undamaged except for normal wear and tear.

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## Refund of Deposits

Be sure you give your landlord your new address when you move away. Within 31 days after you move and turn in your keys, the landlord must either return all of your deposit or tell you in writing what your money, or any part of it, is being kept for. If the landlord does not return your deposit or give you a written reason, you may sue for twice the amount withheld. Or you can sue for twice the amount of the portion that the landlord does not have a good reason to keep. In some cases, the landlord may counterclaim for unpaid rent or property damage. A landlord who charges both fees and deposits must deduct any expenses from the fees first.

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## Legal Methods the Landlord Can Use to Move a Tenant

If you are a tenant, a landlord can use three legal ways to get a rented place back from you:

1. You move out and return the keys;
2. You move out, abandon the place and do not tell anyone of plans to return; or
3. The landlord goes to court and gets an order, after a hearing, to have the sheriff move you out.

The landlord cannot change the locks, shut off utilities, remove your belongings or do anything else outside of court to force you to move.

If your landlord illegally shuts off your utilities, call the utility company to have service restored immediately. If you are locked out illegally, ask the

landlord to let you back in. If the landlord will not let you in, you have the right to get in through a window or some other way. If the landlord takes your belongings, make a list of everything that was taken. In any of these situations, you should get legal help immediately.

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## Eviction

A landlord must go to court to get an order saying a tenant must leave. The landlord must first give the tenant a **termination notice**. The law allows a variety of such notices:

1. If you are a month-to-month renter, the landlord can give you a 30-day notice to leave without giving a reason. However, the landlord cannot use this notice to retaliate or discriminate against you. If you live in your own mobile home in a mobile home park and you haven't waived your right to notice at the end of your lease term, or if you live in some kinds of government-subsidized housing, the landlord **must** state a good reason to evict.
2. The landlord can give a 30-day **"for cause" notice**, stating a good reason to evict. In regular housing, this notice must give the tenant 14 days to solve most kinds of problems. In mobile home parks, the mobile home owner has 30 days to solve the problem. The tenant can stay if the problem is corrected within the time limit.
3. If a tenant causes the same problem within six months after receiving a "for cause" notice, the landlord may give another notice without a chance to fix the problem. The time allowed varies with different types of rental housing.
4. The landlord can give a 10-day notice to remove a pet kept in violation of the rental agreement. If a tenant does not remove the pet within 10 days, the landlord can go to court.
5. If the tenant is more than seven days late in paying rent, the landlord can give the tenant a 72-hour notice to pay or move, or a 144-hour notice when rent is five days late. The landlord must accept the rent if it is offered during the notice period.
6. The landlord can give a 24-hour notice if someone in the tenant's household endangers others, causes major property damage or commits an "outrageous act." This kind of notice also applies if the original tenant moved out and someone else moved into that household in violation of the first tenant's written rental agreement.
7. Non-profit landlords and housing authorities with housing for people in treatment for drug or alcohol abuse can give a 48-hour "for cause" notice if a tenant uses alcohol or drugs in violation of the rental agreement.

Each of these notices must follow very specific legal rules. Each kind must be delivered to the tenant in specific ways. Each kind merely allows the landlord to start a court eviction only **after** the time limit in the notice. If you are a renter and receive an eviction notice that you don't understand, or if you believe you shouldn't have to move, get legal advice immediately.

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## Landlord Retaliation

A landlord may not retaliate against a tenant by increasing rent, decreasing services, giving a termination notice or starting an eviction case after a tenant:

1. Complains to the landlord about needed repairs;
2. Complains that the landlord violated the rental agreement;
3. Complains to building, fire or other safety enforcement agencies;
4. Joins or starts a tenants' union;
5. Testifies against the landlord in court; or
6. Wins an eviction case against the landlord in the preceding six months.

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## The Termination Notice Time Limit and Court

After the time limit in a termination notice is up, the landlord has to go to court to get a judge to force the tenant to move. This kind of lawsuit is called an **eviction case**. The tenant will get a copy of the papers the landlord has filed. The papers will tell the tenant when to be in court for the "first appearance."

If you are a tenant, you must tell the judge at the first appearance if you think you should be allowed to stay in your home. If you do think so, you must ask for a trial to decide your rights. If you want a trial, you must file an **answer**, which is a legal form stating your defenses to the eviction. If you do not attend the first court appearance to ask for a trial, the landlord wins automatically. If you ask for a trial, the court will set a trial date within 15 days of the first appearance. At the trial, both sides will explain their stories. (In some counties, the court will ask the tenant and the landlord to try to mediate their dispute with a trained court employee, so as to avoid the added costs of a trial.)

Your courthouse will have answer forms you can fill out. If you cannot afford to pay the court fee to file your answer, you should ask the judge at your first appearance to let you defer payment. Most courthouses have forms for this purpose as well.

The side that wins at trial usually wins the right to make the other side pay all the costs of the lawsuit, including attorney fees. If the landlord wins, the court will order you to move by a certain date. If you have not moved by that time, the landlord can have the sheriff put a four-day final notice on your door. At the end of the four days, the sheriff will come back to make sure you move.

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**Storage of Your Belongings After You Move Out**

If you move away and leave behind any of your belongings, your landlord must store them for a short time. The landlord must send a 15-day notice of abandoned property to your last known address, asking you to pick up your belongings. You should call or write to your landlord to arrange to pick up your belongings during the 15 days. The period is longer for recreational vehicles or mobile homes that have been left behind. If you were evicted, the landlord cannot force you to pay rent or court costs before giving you your belongings. However, the landlord can add the cost of the storage to the eviction court judgment against you.

If the landlord gave proper notice and you miss the 15-day deadline, the landlord can sell your belongings to pay for the notice, boxing, storage, sale and unpaid rent (if any). The landlord may throw out or give away belongings under a certain value that cannot be sold for a profit.

If the landlord won't give back your belongings during the notice period, you can file a claim in district court to get them back. The court provides forms for this purpose.

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**Resources**

Landlord-tenant law can be extremely complicated. General information about landlords' and tenants' rights is available from several sources.

Some low-income tenants can get free legal advice from their local legal aid offices. In some cases landlords and tenants older than 60 can get free legal advice through volunteer lawyer programs at senior centers.

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more

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**Fair Housing Hotline**

(for housing discrimination only)  
**800-424-3247**

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**Mobile Home Park Mediation, Oregon Housing and  
Community Service Department**

Mobile home park tenants and landlords can take advantage of the Oregon Housing and Community Service Department's mobile home park mediation services. Mediators will help work out problems with rules, management and other conditions at the parks. For more information call:

**503-986-2145 (Salem) or 800-453-5511**

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## **Oregon State Bar Tel-Law Topics**

1246 - Rights and Duties of Tenants

1247 - Rights and Duties of Landlords

1248 - Illegal Housing Discrimination

1249 - Rights of a Mobile Home Owner Threatened with Eviction from a  
Mobile Home Park

1250 - Rent Increases

1251 - Reasonable Rules in Mobile Home Parks and Floating Home  
Facilities

1252 - Landlord Rules in Conventional Rental Housing

1253 - Eviction Notices

1254 - Evictions

1255 - Eviction Defenses

1256 - Getting Repairs Made

1257 - When Tenants Leave Belongings Behind

1258 - Tenant Privacy/Landlord Access

1259 - Habitability

1260 - Fees and Deposits

**503-620-3000 or 800-452-4776**

[www.osbar.org](http://www.osbar.org)

## ***Landlord Organizations***

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### **Manufactured Housing Communities of Oregon**

**503-391-4496 (Salem) or 800-488-6426**

[www.mhco.org](http://www.mhco.org)

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### **The Oregon Rental Housing Association**

The Oregon Rental Housing Association is an umbrella organization in Salem with about a dozen local affiliates. It offers forms, education and other assistance to landlords.

**503-364-5468 (Salem)**

[www.oregonrentallhousing.com](http://www.oregonrentallhousing.com)

## Tenants' Organizations

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### Community Alliance of Tenants (Portland)

Renters' Rights Hotline  
503-288-0130  
www.oregoncat.org

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### National Alliance of HUD Tenants (Boston)

This agency accepts complaints of unlawful housing discrimination under both federal and state laws. It investigates the claims and tries to resolve them.

617-267-2949  
www.saveourhomes.org

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## Glossary of Terms

**Answer:** *A legal form used in court to state your defense against an eviction.*

**Discrimination:** *Landlords may not evict or refuse to rent because of sex, race, color, marital status, children, national origin, physical or mental disability, the need for a guide dog or other service animal, source of income, or because you've won an eviction case. Landlords cannot discriminate against you because you have been the victim of family abuse, sexual assault or stalking crimes. (For more information on discrimination, refer to Chapter 10.)*

**Eviction Case:** *The name of the lawsuit filed by the landlord to force a tenant to move because he or she has not moved out before the termination notice time limit.*

**For Cause Termination Notice:** *A notice that states the reasons the landlord wants to terminate the rental agreement and that allows the tenant to try to solve the problem within a time limit.*

**Rental Agreement:** *The agreement between the tenant and landlord that states the rent amount, where to pay it and when it is due, together with other conditions.*

**Residential Landlord and Tenant Act:** *The Oregon law that specifies the rights and duties of landlords and tenants.*

**Security Deposit:** *Money the tenant pays to a landlord before moving in. It covers potential costs of any property damage the tenant may cause. Deposits are refundable.*

**Termination Notice:** *A notice the landlord gives to a tenant explaining when the tenant must move out.*