

# **Advice for Idaho Renters: Landlord and Tenant Rights and Responsibilities**

Read this handout to understand:

- What rights and duties do tenants and landlords have in Idaho?
- What do Idaho's laws say about leases, rent increases and evictions?

## **The Landlord - Tenant Relationship**

Any written agreement (lease) will govern how the landlord and tenant act during the tenancy. However, whether or not a landlord and tenant have a written agreement, they still have a contract and certain **legal rights and responsibilities** in Idaho. Some of the laws affecting landlord-tenant relationships are found in Idaho Code (I.C.) Sections 6-303, 6-320, 6-321, 55-208, and 55-307.

If you have questions about your rights or duties, you should look first to the written lease for the answer. If you still have questions, then contact an attorney.

## **Tenants' Rights**

- Right to possess and use the premises.
- Right to "quiet use and enjoyment" of the premises. For example, the landlord should control the unreasonable noise of other tenants and give the tenant reasonable notice before coming into the tenant's space.
- Any other rights spelled out in the lease and under state and federal law.

## **Landlords' Rights**

- Right to receive rent on time.
- Right to receive the return of the premises at the end of the lease terms.
- Any other rights spelled out in the lease and under state and federal law.

## **Tenants' Responsibilities**

*A tenant must:*

- Pay rent on time, even if repairs are needed.
- Keep those premises under the tenant's control in a clean and sanitary condition.
- Properly dispose of garbage.
- Properly use appliances, electrical fixtures, and plumbing facilities.
- **A tenant must NOT** carelessly / negligently destroy or deface the premises or fixtures or let family members and other guests do so either.

## **Landlord's Responsibilities**

*A landlord must:*

- Provide waterproofing and weather protection of the premises.
- Maintain electrical, plumbing, heating, ventilation, and sanitary facilities in good working condition.
- Maintain the premises so they are not hazardous to the tenant's health or safety.

- Return any portion of the security deposit that is not used to repair damages or clean as described in the rental agreement.
- Comply with the terms of the lease or rental agreement.
- Comply with city, county, and state housing codes. See I.C. 6-320

### **Common Tenant Violations**

- Leaving the premises without proper notice
- Failure to pay rent when it is due
- Breaking windows or fixtures
- Burns in carpets or on fixtures
- Making excessive noise

### **Common Landlord Violations**

- **Structural Deterioration:** cracked, crumbling walls and ceilings, leaky roofs, broken/missing doors or windows
- **Defects** in plumbing, wiring, heating: broken toilets, plumbing leaks, exposed electrical wires, no heat in winter, no hot and cold running water, no working sink or bath/shower
- No means to remove or store garbage
- Rats or insects due to landlord's neglect
- Failure to provide a smoke detector
- No attempt to repair any of the above defects after being notified in writing by tenant  
*See Idaho Legal Aid (ILAS) brochure: **Repairs***
- Unlawful entry into tenant's space
- Unlawful taking of tenant's possessions
- Unlawful eviction
- **Discrimination** based on sex, race, color, national origin, religion, disability, or family status (having children under age 18)

\*If this happens, contact the **Intermountain Fair Housing Council** or **HUD Fair Housing Office** immediately.

### **Before you move in, the landlord should:**

- Conduct a criminal, financial, credit, and rental background check, if necessary.
- Give you copies of the lease.
- Make sure you clearly understand your duties under the lease.
- Inspect the place with you before you move in and after you move out.

### **While you're renting, the landlord should:**

- Give you receipts when you pay rent or other money to the landlord and keep accurate records of all money that you pay or owe.

### ***Can my landlord evict me?***

You can be legally evicted if:

- You violate the terms of the lease.
- You don't pay rent or pay late.
- You use, deliver or produce a controlled substance (drugs) on the premises.

- You rent month-to-month (an open-ended lease) and the landlord gives you 30 days' written notice asking you to move. I.C. 55-208

**You can NOT be legally evicted if:**

- You paid rent on time but the landlord tries to evict you in **retaliation** because you asked for repairs, called the city for a health code violation, joined a tenants' association, exercised another tenant's right OR
- Your landlord gives you a notice of overdue rent or lease violation and, within three days, you **cure** the violation or pay the back-rent.
- Also, your landlord cannot try to physically force you out (for example, turning off your utilities or changing the locks) without going through the legal process of giving you proper written notice and filing suit with the court.

*Note: It is extremely important for you to review your lease carefully prior to signing. If your lease contains a provision regarding terminating the agreement or deeming the property abandoned due to non-payment of rent you should consider not signing the lease. This provision is not tenant friendly and may waive important rights you would otherwise have in eviction proceedings.*

**A landlord must give you proper notice before an eviction.**

IF the landlord believes that...

- You are behind on rent OR
- You violated the terms of lease OR
- You unlawfully used, delivered, or produced a controlled substance (drugs) on the premises

...THEN the landlord must give you **three days' written notice before eviction** (including weekends and holidays).

The three-day written notice MUST state:

- Amount of any rent you owe (if any)
- Lease provisions you allegedly violated
- Notice that you have used, delivered, or produced drugs.

If you pay the back-rent, or cure the lease violation within three days, you can NOT be evicted. I.C. § 6-303

- If you are living in **government subsidized** (public) **housing**, or receive a rent subsidy, you must receive **30 days** notice in most cases. Also, you can only be evicted for **good cause**.

*See ILAS brochure: **Federal Housing Programs***

***How long do I have before I'm evicted?***

Once you receive a three day (or 30 day) written notice, the landlord may start the legal eviction process ("unlawful detainer") to retake the premises and collect past due rent. If the landlord wins, you may owe damages and have to pay attorney fees if s/he asks for them.

**Regular Eviction Proceedings**

If the landlord wants to evict you because:

- you violated the terms of the lease and the landlord gave you three days' notice OR
- you have an open-ended (month to month) lease and the landlord gave you 30 days' notice,
  - (1) You will receive a Summons & Complaint.
  - (2) You then have 20 days to file an Answer with the court. Talk to an attorney immediately if you receive a Summons & Complaint.

### **Expedited (Faster) Eviction Proceedings**

If the landlord wants to evict you because:

- you have **not paid rent** OR
  - you used/sold/produced **drugs** in the place,
- then the landlord can start a very fast “summary trial procedure” to gain possession within **5 - 12 days** after you receive notice that the landlord started the court action.
- If the landlord wins and you don't move by the court-ordered time, the Sheriff may remove you and your property from the premises.

### **Is your Landlord in Foreclosure?**

You may have extra time (**up to 90 days**) if a new owner of your property wants to evict you after buying the property in a foreclosure sale.

*See ILAS brochure: **Renters in Foreclosure.***

If you are being treated unfairly, evicted illegally or in retaliation: talk to an attorney immediately.

### ***Can my landlord increase my rent?***

There is no limit on the number of times or the amount a landlord can increase the rent unless there is a provision in the lease which says otherwise. You can move rather than pay the increase. See Idaho Code Section 55-307.

If your tenancy is “month to month,” you must receive written notice of a rent increase at least 30 days before the increased rent takes effect.

If your lease sets the amount of rent for a given time (like six months or one year), then the landlord cannot raise rent during that time.

### ***Can my landlord enter my apartment?***

Unless there is an emergency, your landlord must tell you when she plans to enter and why. The landlord can only enter with permission or for reasons you agreed to in the lease. The landlord may enter your rental property to make needed repairs or show future tenants the place, but she must do so at convenient times and tell you ahead of time.

### ***Can my landlord take my personal property?***

No! If this happens, call the police and an attorney. After you move out, you are free to take all of your property as long as the removal does not damage the premises. Carefully remove your belongings from the walls and ceilings and do not take any fixtures that are part of the rental property.

### ***Can I break my lease (leave early)?***

If your lease has a **termination clause**, or if the landlord violates the lease and then agrees to release you from its terms, you may break the lease. Get all such agreements in writing! You cannot break a lease without good cause.

A lease is binding and you could be forced to pay damages and the landlord's costs of re-renting the place (finding a new tenant), but the landlord has a duty to re-rent the place as soon as possible to mitigate these damages.

### ***If I have an oral lease, or if my lease doesn't say how much notice is required, how much notice must I give my landlord?***

It is best to give at least 30 days' written notice. If that is impossible, tell your landlord as soon as possible *in writing*. If you don't give reasonable notice, you may have to pay the landlord's costs of re-renting the place.

It may be difficult to enforce your rights after you have moved into a place.

### **Before moving in, take these steps to avoid problems later:**

- Talk to current and former tenants about the landlord's practices or reputation.
- Make sure you can afford the monthly rent and utilities before moving in.
- Inspect the place with the landlord before moving in and after moving out. Keep a written copy of any defects. Take pictures or video.
- Obtain copies of the lease and keep copies of all notices the landlord gives you.
- Keep an accurate account of all monies paid or owed to the landlord. Keep copies of records. Pay with checks, never cash.

Make sure you clearly understand your duties under the lease. If the language is unclear, ask questions until you understand each part of the lease. Talk to an attorney if you are still unsure about your duties.

*The advice in this handout is very general and there might be special factors in your case. If you have legal questions, contact an attorney. If you cannot afford an attorney, contact Idaho Legal Aid Services. Also, visit us on the web at: [www.idaholegalaid.org](http://www.idaholegalaid.org)*

Revised 8/20