

# FREQUENTLY ASKED QUESTIONS

## EVICCTIONS

**My landlord just gave me a “Notice to Leave the Premises” saying I have to vacate my rental property in three days. What happens if I don’t get out in three days?**

The landlord cannot lawfully put your belongings out if you don’t vacate in three days. Ohio law has a process which the landlord must follow. The landlord also cannot lawfully change the locks on your door - that would be an illegal self-help lockout. The landlord has to wait three full days after giving you the notice before he can take the next step in the process, which is to file an eviction complaint in municipal court. If the landlord files an eviction complaint in court you will be served with court papers. The top page of those papers will tell you the time and date of the eviction hearing. The hearing will be scheduled “no sooner than the seventh day from the date service is complete.”

**If I get out within the three days, can the landlord still evict me?**

No. If you vacate the rental property and return your keys to the landlord within those three days, the court will most likely not sustain the landlord’s eviction action. Try to get a receipt for the keys, because turning over the keys is the official act of giving the property back to the landlord.

**I got the eviction complaint and my hearing is tomorrow. But I have moved out and returned my keys to the landlord. Do I still need to go to court tomorrow?**

**Yes. You should go to court.** You may find out that the landlord dismissed the case once you get to court, but you should go to court. When your case is called tell the magistrate the date you moved out and returned the keys to the landlord. You should ask “*Your honor I am asking that the eviction be dismissed as ‘moot’ because I moved out and I do not want an eviction judgment on my record.*” (Moot means unnecessary.)

**My eviction case is tomorrow. I am too late to get help. What should I do tomorrow? Can I ask for a continuance?**

If this is your first hearing on the eviction case, you can **ask for a continuance** (seven days in Franklin County, but may be different depending on the jurisdiction) so that you can try to get an attorney to help you. Eviction hearings are very quick. When your case is called you should go up in front of the magistrate. You will first be asked to take an

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oath affirming that you are telling the truth. Then people will start asking you questions. Before you start answering questions say “*I would like a continuance so that I can find an attorney.*” The court will usually (but not always) give you a continuance and reschedule the hearing later. **NOTE:** It is important that you ask for this continuance before you start answering questions about the case. If you start answering questions about the case and then at the end ask for a continuance, you probably won’t get it.

## **I disagree about the reason for the eviction but have no attorney. Can I present my arguments on my own?**

Yes. At the start of the hearing, the magistrate will probably ask you questions similar to the following:

1. Did you get a copy of this 3 day notice to leave?
2. At that time were you behind in rent?
3. Are you still living there?
4. Do you have anything you’d like to say?

If you did not get a copy of the notice, or you disagree that you were behind in rent, or if you have moved out, you need to answer “NO” so that there will be a discussion about that issue. If you have paperwork such as receipts showing that you made payments, bring copies of those to court. If you tried to offer your rent but the landlord refused to accept it, give details (where, when) about the date you offered the rent, along with copies of any supporting documentation. Bring witnesses who can support your side of the story.

## **I already got a continuance. I could not get an attorney. My hearing is tomorrow. I agree I owe some money to the landlord. What should I do?**

You should try to reach an agreement with the landlord in which they will agree to drop the eviction. For example, if you owe the landlord some money, both parties could attempt to reach an agreement to pay the money and stay. If the landlord does not want to continue to rent to you, the landlord might agree to a specific move-out date. The way the case ends might matter to future landlords. A case that ends with an agreement will probably look better (for you) to a future landlord than an eviction judgment, and could help your ability to get housing assistance in the future. Make sure you understand everything you are signing.

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## **The landlord's Complaint asks for a money judgment. Is this a separate issue from whether or not I get evicted?**

Yes, this is a separate issue. At the eviction hearing the magistrate will usually only decide whether or not the landlord gets to take the property back. If you disagree that you owe money, you need to prepare a document called an "Answer". You need to send a copy to the landlord and file the original with the court within 28 days of when you received the court papers. If you believe the landlord owes you some money, you can also file counterclaims against the landlord. Once you file your Answer or Answer and Counterclaims, the Court will send you a notice about a new hearing on the issue of who owes whom and how much money is owed. If you have moved, you must inform the court of your new address.

## **I lost at my eviction hearing. What happens next?**

The timing and other specifics of the eviction process are dependent on where you live and what your local court's procedures are. Please reference the laws of your local jurisdiction for more specific information.

## **I lost at my eviction hearing, and my landlord threatened to change the locks or shut off my utilities if I don't move out. Is the landlord allowed to do this?**

No. The Ohio Landlord Tenant Act states that “[n]o landlord of residential premises shall initiate any act, including termination of utilities or services, exclusion from the premises, or threat of any unlawful act, against a tenant, or a tenant whose right to possession has terminated, for the purpose of recovering possession of residential premises...” If the landlord conducts an illegal lockout, you may sue the landlord for “all damages,” which includes “general damages” and “special damages” which result from the lockout, as well as reasonable attorney fees. These damages include loss of the rental value of the property, lost wages, cost of a motel room, lost or damaged personal property, the cost of storage of personal property, the cost of a moving truck rental, the cost and inconvenience of using a neighbor's water, and discomfort and disruption of your normal living routine, among other possible damages.

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## SECURITY DEPOSITS

### **What must I do to trigger my landlord's obligation to return my security deposit or a list of itemized deductions?**

Your landlord must return your security deposit, within 30 days of your moving out, as long as you:

1. Remove all of your belongings from the unit
2. Return the keys to your landlord. **YOU ARE NOT CONSIDERED "MOVED OUT" UNTIL YOU RETURN THE KEYS. If you are able to, obtain a signed receipt from your landlord documenting the date of key return.**
3. Gave your landlord a mailing address, in writing, where the security deposit or itemized deduction list should be sent.

### **Does my landlord have a right to withhold funds from my security deposit?**

Yes. Your landlord can deduct funds from your security deposit for the following:

1. Unpaid rent
2. Unpaid utilities and/or fees
3. Damage to the property beyond "normal wear and tear"

If your landlord does deduct funds from your security deposit, then your landlord must give you a written itemization of the deductions. ***In order to receive your security deposit and/or itemized deduction list, you must provide your landlord with a proper forwarding address, in writing.***

### **What if I do all that, and the landlord does not send me anything, or sends me an itemized list of damages I never caused, or withholds deposit money for routine cleaning or painting?**

Write a follow-up letter to your landlord asking about the deposit or explaining why you believe it should not have been withheld. If the landlord fails to respond within a reasonable amount of time or the matter cannot be resolved, you can sue your landlord. Usually, because these cases involve amounts less than \$6,000, they can be filed in small claims court. Ask your local municipal court for a small claims complaint form to start the process. You will be the plaintiff. The landlord will be the defendant. If the landlord is just a property management company, you may also want to list the property

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owner as a defendant. You can find out who owns the property by looking on your county auditor's or recorder's website.

Write in the complaint that you are bringing suit under *Ohio Revised Code* section 5321.16, and that you are asking for double damages, court costs, and attorney's fees (if you have an attorney). After the defendants are served with your complaint, you will get a notice from the court containing the information you need, including any hearing dates.

If the court determines that your landlord wrongfully withheld any amount of your security deposit, then the court must award you double the amount of whatever portion was wrongfully withheld. If an attorney helps you, the court will also hold a hearing to determine what attorney fees were reasonable and should be covered.

## **Can I do anything to improve my chances of getting back my security deposit?**

Yes, there are three things that you can do:

1. Leave the rental unit in good condition. Remove all of your belongings and then clean up the property (e.g., sweep, vacuum, wipe down counters, cupboards, and walls). If you caused any damage beyond normal wear and tear (such as a hole in the wall or a purple grape juice stain on white carpet), try to make the appropriate repairs or assume the landlord will use a portion of your deposit money to make the repairs.
2. After you have removed your belongings and cleaned, document how you left the property by taking a video of each room, including walls, floors, windows, ceilings, as well as any appliances you used (e.g., the stove and your cleaned out refrigerator).
3. Write a letter to your landlord to give notice of a mailing address where your deposit money can be sent. Make a photocopy of the letter for your records, and mail the letter with a certificate of mailing.

## **My deposit was \$500. My landlord says I have done about \$2,000 worth of damage to the property. If he keeps my deposit, can he make me pay the additional \$1,500 he says I owe?**

Yes. In this case, your landlord could apply the \$500 deposit to the damages and then sue you for the remaining \$1,500. If your landlord sues you, he will have to give the court evidence of the cost of the damages and that you caused them. If the court determines that you owe the additional money, you will be ordered to pay it.

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## **Can my landlord use my deposit money to cover past due rent?**

Yes. If you leave the apartment and owe back rent, the landlord can use the deposit money to cover your unpaid rent. The landlord needs to give you a written notice explaining why he did this and itemizing what he did with the deposit money. The landlord must also return to you any money not used for past due rent or damages.

## **What is considered “normal wear and tear”?**

When a rental unit is lived in, it sustains some wear and tear. For example, the carpet may show wear and the blinds may have faded from everyday use of the property. Some landlords will pay for carpet cleaning, new blinds, new paint, etc., every time a tenant moves out to refresh the property for the next tenant. A landlord should not withhold deposit money to pay for routine property maintenance. For more information, please consult COHHIO’s document titled “Wear & Tear vs. Damages” (located on our website’s Landlord-Tenant Law page).

## **RENTAL HOUSING CONDITIONS/REPAIRS**

### **Who takes care of problems at my rental unit?**

In Ohio a landlord has a duty to keep rental property in a fit and habitable condition. In general this includes making any needed repairs, or doing whatever else is necessary to fix a problem at the rental property so that it is in good condition. A landlord is not allowed to shift these duties back to a tenant in the lease.

### **What are my duties as a tenant?**

The tenant must keep the unit safe and sanitary, properly dispose of trash and waste, use fixtures and appliances properly, and not damage the property.

### **Who pays for repairs or other maintenance?**

A tenant should only be responsible for paying for repairs or maintenance work caused by the negligence of the tenant (or the tenant’s guests). For example, if a window breaks because your son was playing baseball in the living room, you should pay for the repair. If a window breaks due to a random act of vandalism, the landlord should pay for the repair.

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## Landlord duties:

- Maintain the rental property so that it complies with local building, housing, health, and safety codes.
- Make whatever repairs necessary to keep the property in a fit and habitable condition, including common areas of the property.
- Keep all electrical, plumbing, sanitary, heating, ventilating, and AC fixtures and appliances supplied by the landlord in good and safe working order.
- Supply running water and reasonable amounts of hot water and heat. (This does not include *paying* for hot water or heat).
- Give tenant 24 hours notice of intent to enter for non-emergency repairs.

## Condition problems that are generally the landlord's responsibility:

- Lack of heat, water, or hot water (if not caused by tenant non-payment)
- Electrical Problems
- Plumbing Problems
- Sanitation Problems
- Ventilation Problems
- Air Conditioning Problems
- Elevator Problems
- Insect or rodent infestation
- Broken windows, doors, locks, stairs
- Broken appliances or bathroom/kitchen facilities
- Any other conditions that make your rental home unfit or uninhabitable

## What about bedbugs and other pests?

In general, eliminating vermin and pests such as rats, roaches, and bedbugs is part of a landlord's duty to keep the premises in a fit and habitable condition. You should notify the landlord as soon as you notice the presence of any such pests, and cooperate with any treatment efforts. A tenant has a duty to not negligently harm the property. A tenant should not bring a mattress full of bedbugs into the rental unit, or refuse access during extermination efforts.

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## **There is mold in my unit. What do I do?**

Your landlord has a duty under the Ohio Landlord Tenant Act to comply with building, housing, health, and safety codes that “materially affect health and safety.” Your landlord also has a duty under the Act to put and keep the premises in a “fit and habitable condition.”

In order to prove that the mold is adversely affecting your health, you will need documentation that mold is the cause from a medical professional. Once this causal link is proven, you may contact your local code enforcement or county health department to report a code violation. You also have the option of suing your landlord in court over the damage to your health (the causal link between the mold and the adverse health effects **MUST** be documented by a medical provider).

Another option is escrow – paying your rent to your local court as an economic incentive to make repairs (perhaps fixing a leak that is the source of moisture upon which the mold feeds, or eliminating the mold itself).

Please refer to COHHIO’s brochure titled “Mold In Your Home” (located on our website’s Landlord-Tenant Law page) for more information, including on the possible health effects of mold and how to prevent/eliminate mold.

## **How do I get my landlord to make repairs? (Escrow)**

Ohio law requires you to make a repair request in writing in order to force your landlord to act. Once you make this request in writing, your landlord has a reasonable amount of time to act and make the needed repairs – the maximum time allowed being 30 days; he/she may have less time to act depending on the severity of the problem.

After you have made your repair request in writing and waited a reasonable amount of time and your landlord has not made the needed repairs, you can take the next step of putting your rent into escrow. Escrow is intended as an economic incentive to encourage your landlord to make the needed repairs. You must be current with your rental payments in order to deposit your current rent into escrow. If this is the case, you may deposit all rent that is due thereafter with the clerk of your local municipal or county court. Make sure you escrow on the date your rent is due. At this stage you also have the option of terminating your lease.

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For more details about how to request a repair in writing and/or how to escrow your rent, please refer to COHHIO's informational documents concerning escrow located on our website's Landlord-Tenant Law page.

## **Exceptions to rent escrow and lease termination**

The rent escrow and lease termination processes **do not** apply to a landlord who rents out three or fewer dwelling units and who has provided notice of that fact to the tenant in writing (in the lease or in a separate writing). These processes also do not apply to a dwelling unit owned or operated by a college or university where the tenant is a student.

## **Negative landlord reactions**

Although you are only asking your landlord to do what is required under Ohio law, some landlords react negatively to requests for repairs and talk of rent escrow. If you are a month-to-month tenant, or if your lease is ending soon, be aware that some landlords may react by deciding to not renew your lease. The real reason may be that they are retaliating against you, which is prohibited by Ohio law, but this can be hard to prove.

Landlords may also attempt to evict you for nonpayment of rent, but properly escrowing your rent (see above section re: escrow) is a good defense to such a claim. Additionally, properly vacating the premises is also a good defense to an eviction claim for failing to vacate the premises.