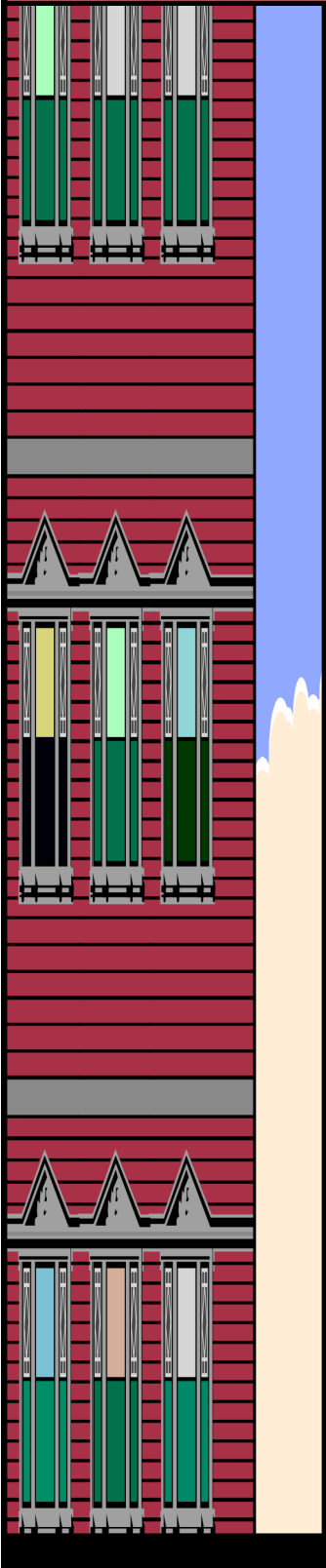


# ***Landlord and Tenants: Rights and Responsibilities***

## **FACT SHEET: Leaving a Rental**



### **Security Deposit**

A security deposit is any refundable deposit paid to a landlord by a tenant as security for damage to the rental property. Security deposits held by the landlord must be returned to the tenant in a timely manner unless written itemized damages to the rental property are documented by the landlord.

### **Terminating a lease**

Does a tenant or landlord have to provide notice to terminate a lease?

- **No**, if the length of the lease is written into the lease the lease terminates on the date in the lease.
- **Yes**, if a lease is month to month, the lease can be legally terminated one full month after the month when either the landlord or tenant gives notice to terminate the lease.
- **Yes**, if a lease is year-to-year either the landlord or the tenant may legally terminate the lease by giving at least three months notice before the end of the lease year.

### **Tenant Abandons a Rental Property**

If the tenant does not pay rent and leaves the property before the end of the lease period, the landlord can take possession of the rental property.

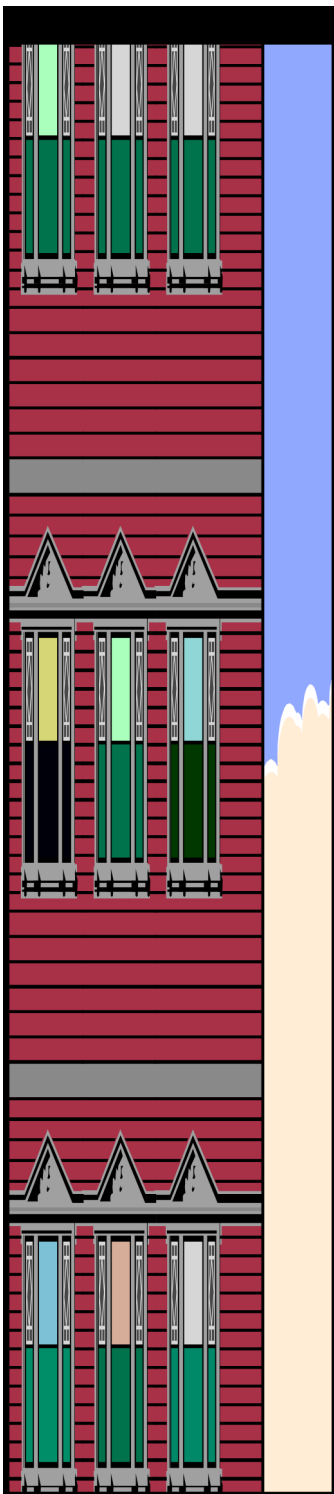
The landlord can take possession of the tenant's personal property left in the rental property. WV law gives the landlord guidelines on how to handle a tenant's personal property.

### **Holding Over**

If a tenant stays longer than the term of the lease, it is considered holding over and the landlord can collect rent and/or take legal action to evict the tenant.

### **Eviction**

A landlord can take action to evict a tenant if the tenant has violated the lease. The landlord's first step is to give the tenant a notice of termination. If a tenant refuses to respond, the landlord has the right to go directly to court and file a suit to have the tenant evicted.



Since a tenant may only have a few days to respond to an eviction notice, the tenant should immediately find a lawyer for assistance. Tenants may represent themselves in court, but cannot be legally represented by another person unless that person is a licensed attorney in the state of West Virginia.

If a tenant does not file a written answer to the eviction notice or appear in court on the specified date, the landlord will be given a judgment for possession, which requires the tenant to leave the rental property by a specific date.

### **Counterclaim**

A tenant may file a counterclaim in response to an eviction notice. One reason for filing a counterclaim could be that the landlord has not maintained the property in a fit and habitable condition. Serious violations would include lack of adequate heat and hot water, faulty wiring, other fire and safety hazards and roach or rat infestations.

### **Can I get help to pay for an attorney if I need one?**

Maybe. The tenant may file an Affidavit of Indigency, which if granted by the court, will waive some court costs. You also can contact Legal Aid of WV at **866-255-4370** or **[www.lawv.org](http://www.lawv.org)** or WV Senior Legal Aid at **800-229-5068** or **[www.seniorlegalaids.org](http://www.seniorlegalaids.org)** for legal advice.

### **Can I call someone if I feel discriminated against?**

Yes, if you believe your landlord is discriminating against you based on Fair Housing law, call **304-296-6091** for information, to speak to the Housing Advocate or to receive a copy of the *Landlord and Tenants Rights and Responsibilities* manual.

**This fact sheet is a brief overview of the *Landlord and Tenant Rights and Responsibilities* manual.  
Alternate formats are available upon request.**

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WV Developmental Disabilities Council  
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WV Senior Legal Aid, Inc.

### **For more information contact the WV Fair Housing Action Network (WVFHAN)**

Northern West Virginia Center for Independent Living  
601-3 East Brockway  
Morgantown, WV 26505  
**304-296-6091**  
**[info@wvfairhousing.org](mailto:info@wvfairhousing.org)**

