

Questions & Answers for Landlords

Must I Accept Any Applicant? This may depend in great measure on how much space you are renting. If you are renting a room in your home, or the other half of the duplex in which you live, you may be able to restrict your tenant, even if it is for discriminatory reasons. If, however, you are leasing space in which you do not live, or are renting more than one property, your right to restrict who may live in those properties is limited by state and federal anti-discrimination laws. Thus, you may not discriminate on the basis of the applicant's race, creed, sex, age, handicap or national origin. Many states also prohibit discrimination on the basis of the applicant's sexual preference, or having children. You will need to check your state and local laws to see if these restrictions apply.

This does not mean, however, that you must rent to the first applicant, or be liable for discrimination. If, for instance, a credit check reveals that the applicant has a bad credit rating, has passed bad checks, or if you are aware that the applicant has been convicted of certain crimes, is a drug user, or has other characteristics which make the person undesirable, you may refuse to lease to that applicant. The key is that there must be legitimate non-discriminatory reasons for a refusal to rent.

Should There Be a Written Agreement? A written lease can be an important protection for a landlord attempting to evict a bad tenant, or attempting to collect for non-payment of rent or for damage to the rental space. While it is possible to have an oral agreement for a short duration (most states require that leases in excess of three (3) years be in writing to be enforceable), the certainty of terms provided by a written lease makes it the preferred choice.

If your state has adopted "plain language" laws, your lease may need to be written in everyday language, and certain clauses may need to be highlighted either by darker print, shading or larger print. Your state may also have certain restrictions on eviction, or on your ability to enter your tenant's space and reclaim it upon non-payment of rent, or to retain the property in the space if the tenant abandons the space. Your obligations as to any security deposit you may require may be specified by state law, including whether interest must be paid, and when it may be retained and when returned. Be sure to check your state laws when preparing a written lease.

What Are My Obligations As A Landlord? You clearly have the obligation to abide by the terms of the lease. Additionally, even if the lease does not require it, you are required to provide a habitable space for the tenant. If the space is rat or roach infested, or there is no working water or sewage system, you may be considered to have failed in your obligation to provide a habitable space, and your tenant may be entitled to withhold rent, or to pay rent into the court and demand that the space be made habitable.

You also have a duty to provide a space that is safe and free from defects. Thus, if you own an apartment building and a tenant is attacked in an unlighted hallway, or falls down stairs because the railing is broken or missing, you could be liable for the harm suffered. If you are renting a space which is used for drug trafficking you could have liability to the drug users, and anyone injured by them. Many state and federal laws give you emergency rights when you are aware such transactions are occurring in space you own, and you should take advantage of such laws if you become aware that the leased space is being used illegally.

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You also have the obligation to give your tenants “quiet enjoyment” of their space, subject to any restrictions imposed by law or the lease. So long as the tenants continue to pay rent, are not violating the law or their lease, and are not disturbing others, you cannot interfere with their use of the space, even if you do not care for the music they play, the color of drapes they hang, or the hours they keep.

What Are My Rights As A Landlord? You have the right to be paid rent and to not have your property damaged. In order to assure that your property is not damaged, most state laws give the landlord rights of access to check on that property. You also have the right to enforce your rights under the lease, so that, if the tenant is not paying rent, or has abandoned the leased space, you may be able to evict the tenant, recover possession, and sell any property left in the space and keep the proceeds to satisfy any outstanding rental obligations.

You may have acceleration rights if your lease, or the law permits it, so that a tenant who has missed one month’s rent, may have to prepay the rent for the entire term in order to keep the space. In some states, you have the right to impose a penalty for late payment, or to keep the security deposit upon abandonment of the premises. Your rights are primarily a creature of state law and the written agreement, and you should study both before attempting to exercise any rights.

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