

Housing Matters

Lawyers Committee for Better Housing Mission

Lawyers' Committee for Better Housing, Inc. (LCBH) is pleased to make available this updated Chicago Renters' Resource Guide. We hope that Chicago tenants will make use of the information to understand the law and assert their rights when necessary.

We believe that only with safe, stable housing can families succeed in becoming part of the mainstream of society. Families must have a decent place to live in order to maintain steady employment, to properly nurture their children, and to become active members of their neighborhoods and communities.

Through legal representation, public advocacy, and community education, LCBH strives to increase the availability of affordable housing and to assist low-income families in retaining suitable housing in the neighborhood of their choice.

This update of our Chicago Renters' Resource Guide was made possible through grants from the **United Way of Chicago** and the **Chicago Bar Foundation**. We are grateful for their support.

Thanks also to those who contributed to the updating, editing and layout of the guide: Paul Bernstein for legal expertise, Pat Bronte for the initial version, Brendan Shiller for layout, the LCBH staff for proofreading and comments, and Erica Ringewald of Valerie Denney Communications for Chapter 13 – The Housing Choice Voucher Program.

**This Guide is available on the LCBH webpage – www.lcbh.org.
It is also available in Spanish.**

An Introduction

And A Note of Caution

The Lawyers' Committee for Better Housing created the Renters' Resource Guide to assist you in understanding the legal remedies available under the Chicago Residential Landlord and Tenant Ordinance (the "Ordinance"). While this guide does not take the place of legal advice, knowledge is power! The more you know about your rights and responsibilities, the sooner you can recognize a potential problem and take appropriate action. The remedies provided in the Ordinance were designed and intended for use by non-lawyers, but if you are involved in a lawsuit as a result of a landlord dispute, you should consult an attorney immediately. (Use our reference guide at the back of this booklet to find legal services.)

The Chicago City Council passed the Ordinance in 1986 to protect and promote the public health, safety and welfare of Chicago's renters. It established the rights and obligations of the landlord and the tenant in the rental of Chicago apartments. The Ordinance details what the landlord must provide and maintain in the apartment and what remedies are available to the tenant if the landlord does not do so. It also details the responsibilities of the tenant and the remedies available to the landlord if the tenant does not fulfill them. Other subjects of the Ordinance include security deposits, subleases, the landlord's right of access and illegal lease clauses. For a copy of the Ordinance, visit the Office of the City Clerk, Room 107, City Hall, 121 North LaSalle Street, Chicago, Illinois or the Municipal Reference Library, Harold Washington Library, 5th Floor, 400 S. State Street, Chicago, Illinois.

The first chapter contains a word-for-word copy of "Chicago's Residential Landlord and Tenant Ordinance Summary," a brief synopsis of the Ordinance. Your landlord must give you a copy of this Summary when you sign your lease or when you make an oral rental agreement. Following each section of the Summary, we have referenced the chapters in this guide that give further explanation, examples and exceptions of the Ordinance. This information is indented and italicized.

Other chapters address particular aspects of the Ordinance: discrimination in housing, the eviction procedure, Housing Choice Voucher Program (formerly known as Section 8), and what to know about your lease.

For more copies of the Renter's Resource Guide, write to *Lawyers' Committee for Better Housing*, 220 S. State., Suite 1700, Chicago, Illinois 60604, call (312) 347-7600, or e-mail lcbhoffice@sbcglobal.net. The guide is also available in Spanish and on the web at www.lcbh.org

Tenant Survival Tips

Things every tenant should know:

- Take pictures of your apartment when you first move in and when you move out. Mark the pictures indicating when and where they were taken, and keep them in a safe place.
- Put everything in writing
 1. Try to get a written lease.
 2. If the landlord agrees to let you work around the building in exchange for reducing your rent, **GET IT IN WRITING.**
 3. If the landlord agrees to let you “live out” your security deposit during your last month or two in the building, **GET IT IN WRITING.**
 4. If you have complaints about the condition of your apartment or the building, **PUT THEM IN WRITING.**
 5. If the landlord agrees to fix the problems, **GET THAT IN WRITING.**
 6. **AN UNWRITTEN AGREEMENT IS NOT WORTH THE PAPER IT ISN'T WRITTEN ON.**
- **NEVER THROW AWAY ANYTHING YOUR LANDLORD SENDS OR GIVES YOU. KEEP IT IN A FILE.**
- Keep copies of anything you send or give your landlord, in the same file.
- **NEVER** just stop paying rent. Always put your reasons in writing, and give the landlord at least two weeks to remedy the problem. After that carefully follow the law for deducting for only the reduced market value of the apartment.
- Your security deposit can **NEVER** be used for rent unless your landlord agrees **IN WRITING.**
- **NEVER** pay your rent in cash. Use personal checks or money orders and get receipts.
- Your landlord cannot evict you, or lock you out, or put your stuff on the street, without an order from the Court. If he tries, call the police. Ask to talk to the Watch Commander.

Chicago Renters' Resource Guide

Table of Contents

<u>Chapter 1</u>	5
<u>THE ORDINANCE SUMMARY</u>	5
<u>Chapter 2</u>	11
<u>Fair Housing</u>	11
<u>Housing Matters</u>	11
<u>Chapter 3</u>	16
<u>THE RENTAL AGREEMENT</u>	16
<u>Chapter 4</u>	22
<u>THE LANDLORD'S RESPONSIBILITY</u>	22
<u>Chapter 5</u>	24
<u>TENANT SELF-HELP REMEDIES</u>	24
<u>Chapter 6</u>	27
<u>LACK OF ESSENTIAL SERVICES</u>	27
<u>Chapter 7</u>	28
<u>WRITING LETTERS TO YOUR LANDLORD</u>	28
<u>Chapter 8</u>	31
<u>THE EVICTION PROCESS</u>	31
<u>Chapter 9</u>	34
<u>ILLEGAL EVICTIONS – LOCKOUTS</u>	34
<u>Chapter 10</u>	36
<u>LANDLORD RETALIATION</u>	36
<u>Chapter 11</u>	38
<u>MOVING OUT</u>	38
<u>Chapter 12</u>	40
<u>YOUR SECURITY DEPOSIT</u>	40
<u>Chapter 13</u>	41
<u>The Housing Choice Voucher Program</u>	41

Chapter 1

THE ORDINANCE SUMMARY

CHICAGO'S RESIDENTIAL LANDLORD AND TENANT ORDINANCE SUMMARY

At initial offering, this Summary of the ordinance must be attached to every written rental agreement and also upon initial offering for renewal. The Summary must also be given to the tenant at initial offering of an oral agreement, whether the agreement is new or a renewal. Unless otherwise noted, all provisions are effective as of November 6, 1986. [Mun. Code ch. 5-12-170]

- **IMPORTANT: IF YOU SEEK TO EXERCISE RIGHTS UNDER THE ORDINANCE, OBTAIN A COPY OF THE ORDINANCE TO DETERMINE APPROPRIATE REMEDIES AND PROCEDURES. CONSULTING AN ATTORNEY WOULD ALSO BE ADVISABLE.**

[LCBH Note: See the Reference List for Renters, back page]

The following is a duplication of Chicago's Residential Landlord and Tenant Ordinance Summary." When you rent an apartment, the landlord must give you a copy of this Summary. It summarizes the Chicago Residential Landlord and Tenant Ordinance, informing you of your rights and responsibilities as a tenant as well as those of your landlord. After each section, look for our note telling you where in this guide to find more information about that particular subject.

What rental units are covered by the ordinance?

[Mun. Code ch. 5-12-020]

All rental units with written or oral leases (including all subsidized units such as CHA, IHDA, Housing Choice Vouchers (Section 8), etc.) EXCEPT:

- Rental Units in owner occupied buildings with six or fewer units.
- Units in hotels, motels, rooming houses, unless rent is paid on a monthly basis and occupied for more than 32 days.
- School dormitory rooms, shelters, employee's quarters, non-residential rental properties.
- Owner occupied co-ops and condominiums.

What are the Tenant's General Duties under the ordinance?

[Mun. Code ch. 5-12-040]

The tenant, the tenant's family and invited guests must comply with all obligations imposed specifically upon tenants by the Code, including:

- Buying and installing working batteries in smoke and carbon monoxide detectors within tenant's apartments.
- Keeping the unit safe and clean.
- Using all equipment and facilities in a reasonable manner.
- Not damaging the unit.
- Not disturbing other residents.

[For more information about tenants with a Housing Choice Voucher and their additional responsibilities, please see Chapter 13]

Landlord's Right of Access

[Mun. Code ch. 5-12-050]

- A tenant shall permit reasonable access to a landlord upon receiving two days notice by mail, telephone, written notice or other means designed in good faith to provide notice.
- A general notice to all affected tenants may be given in the event repair work on common areas or other units may require such access.
- In the event of emergency or where repairs elsewhere unexpectedly require access, the landlord must provide notice within two days after entry.

Security Deposits and Prepaid Rent

[Mun. Code ch. 5-12-080]

- A landlord must give a tenant a receipt for a security deposit including the owner's name, the date it was received and a description of the dwelling unit. The receipt must be signed by the person accepting the security deposit.
- A landlord must pay interest each year for security deposits held for more than six months. (eff. 1-1-92)
- The rate of interest a landlord must pay is set each year by the City Comptroller. (eff. 7-1-97)
- Before expenses for damages can be deducted from the security deposit, the landlord must provide the tenant with an itemized statement of the damages within 30 days of the date the tenant vacates the dwelling unit.
- A landlord must return all security deposits and required interest, if any, minus unpaid rent and expenses for damages, within 45 days of the date the tenant vacates the dwelling unit.
- In the event of fire, a landlord must return all security deposit and required interest, if any, minus unpaid rent and expenses for damages, within seven days from the date that the tenant provides notice of termination of the rental agreement. (eff. 1-1-92)

[For more information on your lease, see Chapter 3.]

What are the Landlord's General Duties?

- To give tenant written notice of the owner’s or manager’s name, address and telephone number. [Mun. Code ch. 5-12-090]
- To give new or renewing tenants notice of:
 - Code citations issued by the City in the previous 12 months;
 - Pending Housing Court or administrative hearing actions;
 - Water, electrical or gas service shut-offs to the building during entire occupancy.[Mun. code ch. 5-12-100]
- To maintain the property in compliance with all applicable provisions of the Municipal Code. [Mun. Code ch. 5-12-070]
- To not force a tenant to renew an agreement more than 90 days before the existing agreement terminates. (eff. 1-1-92) [Mun. Code ch. 5-12-130(j)]
- To provide a tenant with at least 30 days written notice if the rental agreement will not be renewed. If the landlord fails to give the required written notice, the tenant may remain in the dwelling unit for 60 days under the same terms and conditions as the last month of the existing agreement. (eff. 1-1-92) [Mun. Code ch. 5-12-130 (j)]
- To not enforce prohibited lease provisions. [Mun Code ch. 5-12-140]

[See Chapter 4, “The Landlord’s Responsibilities,” for more information.]

Tenant Remedies

[Mun. Code ch. 5-12-110]

If the landlord fails to maintain the property in compliance with the Code and the tenant or the tenant’s family or guests are not responsible for the failure, the tenant may:

1. Request in writing that the landlord make repairs within 14 days, and if the landlord fails to do so the tenant may withhold an amount of rent that reasonably reflects the reduced value of the unit. Rent withholding begins from the fifteenth day until repairs are made or:
2. Request in writing that the landlord make repairs within 14 days and if the landlord fails to do so the tenant may have the repairs made and deduct up to \$500 or _ of the month’s rent, whichever is more, but not to exceed one month’s rent. Repairs must be done in compliance with the Code. Receipt for the repairs must be given to the landlord and no more than the cost of the repairs can be deducted from the rent; and also:
3. File suit against the landlord for damages and injunctive relief.

Major Defects

If the landlord fails to maintain the property in compliance with the Code, and the failure renders the premises not reasonably fit and habitable, the tenant may request in writing that the landlord make repairs within 14 days. If after 14 days repairs are not made, the tenant may immediately terminate the lease. Tenant must deliver possession and move out in 30 days or tenant’s notice is considered withdrawn. (eff. 1-1-92)

[Chapter 5, entitled “Tenant Self-Help Remedies, “has a better explanation of what to do if your landlord fails to maintain your apartment or the building.]

Failure to Provide Essential Services (Heat, Running or Hot Water, Electricity, Gas or Plumbing) [Mun. Code ch. 5-12-110(f)]

If, contrary to the lease, an essential service is not provided, or if the landlord fails to maintain the building in material compliance with the Code to the extent that such failure is an immediate danger to the health and safety of the tenant, and the tenant or tenant's family or guests are not responsible for such failure, after giving written notice, the tenant may do ONE of the following:

- 1) Procure substitute service, and upon presenting paid receipts to the landlord, deduct the cost from the rent; OR
- 2) File suit against the landlord and recover damages based on the reduced value of the dwelling unit; OR
- 3) Procure substitute housing and be excused from paying rent for that period. The tenant also may recover from the landlord the cost of substitute housing up to an amount equal to the monthly rent for each month or portion thereof; OR
- 4) Request that the landlord correct the failure within 24 hours and if the landlord fails to do so, withhold from the monthly rent an amount that reasonably reflects the reduced value of the premises. Rent withholding cannot start until after the 24 hours expires and applies only to days past the 24 hour waiting period; OR
- 5) Ask that the landlord fix the failure within 72 hours and if the landlord fails to do so, terminate the rental agreement. If the agreement is terminated, the tenant must deliver possession and move out within 30 days or the notice of termination is considered withdrawn. (eff. 1-1-92)

NOTE: Remedies 4) and 5) may not be used if the failure is due to the utility provider's failure to provide service. For the purposes of this section only, the notice a tenant provides must be in writing, delivered to the address the landlord has given the tenant as an address to which notices should be sent. If the landlord does not inform the tenant of an address, the tenant may deliver written notice to the last known address of the landlord or by other reasonable means designed in good faith to provide written notice to the landlord. (eff. 1-1-92)

[For more information, see chapter 6, "The Lack of Essential Services." Housing Choice Voucher tenants, see Chapter 13.]

**Fire or Casualty Damage
[Mun. Code ch. 5-12-110(g)]**

If a fire damages the unit to an extent that it is in material noncompliance with the Code and the tenant, tenant's family or guests are not responsible for the fire or accident, the tenant may:

- 1) Move out immediately, but if this is done, the tenant must provide written notice to the landlord of the intention to terminate within 14 days after moving out.
- 2) The tenant may stay in the unit, if it is legal, but if the tenant stays and cannot use of a portion of the unit because of damage, the rent may be reduced to reflect the value of the unit.

- 3) If the tenant stays, and the landlord fails to diligently carry out the work, the tenant may notify the landlord, in writing, within 14 days after the tenant becomes aware that the work is not being diligently carried out, of the tenant's intention to terminate the rental agreement and move out.

Subleases

[Mun. Code ch. 5-12-120]

- The landlord must accept a reasonable subtenant offered by the tenant without charging additional fees.
- If a tenant moves prior to the end of the rental agreement, the landlord must make a good faith effort to find a new tenant at a fair rent.
- If the landlord is unsuccessful in re-renting the unit, the tenant remains liable for the rest under the rental agreement, as well as the landlord's cost of advertising.

[Housing Choice Voucher tenants cannot sublease their rental unit. Please see Chapter 13 for more information.]

What Happens if a Tenant Pays Rent Late?

[Mun. Code Ch. 5-12-140 (h)]

- If the tenant fails to pay rent on time, the landlord may charge a \$10.00 per month late fee on rents under \$500.00 and 5% per month late fee on that part of the rent that exceeds \$500.00 (i.e., for a \$450.00 monthly rent the late fee is \$10.00, for a \$700.00 monthly rent the late fee is \$10.00 plus 5% of \$200.00 or \$20.00) (eff. 1-1-92) [Mun. Code ch. 5-12-140 (h)]
- The landlord **cannot** evict the tenant if he accepts **full payment** of the rent due. [Mun. Code ch. 5-12-130 (g)]

[For an overview on the eviction procedure based on nonpayment of rent, see Chapter 8.]

What Happens if a Tenant Pays Rent After the Expiration of the Time Period Set Forth in a Termination Notice?

[Mun. Code Ch. 5-12-140 (h)]

If the landlord accepts the rent due knowing that there is a default in payment, the tenant may stay.

Landlord Remedies

[Mun. Code ch. 5-12-130]

- If the tenant fails to pay rent the landlord, after giving 5 days **written** notice to the tenant, may terminate the rental agreement.
- If the tenant fails to comply with the Code or the rental agreement, the landlord, after giving 10 days **written** notice to the tenant, may terminate the rental agreement if tenant fails to correct the violation.
- If the tenant fails to comply with the Code or the rental agreement, the landlord may request in writing that the tenant comply as promptly as conditions permit in the case of emergency, or within 14 days.

[See Chapter 8 to read how a landlord can begin eviction proceedings after giving you a 5-day or 10-day notice.]

Lockouts

[Mun. Code ch. 5-12-1560]

This section applies to every residential rental unit in Chicago. There are no exceptions.

- It is **ILLEGAL** for a landlord to lock out a tenant, or change locks, or remove the doors of a rental unit, or to cut off heat, utility or water service, or to do anything which interferes with the tenant's use of the apartment.
- All lockouts are illegal and the Police Department is responsible for enforcement against such illegal activity. (eff. 1-1-92) (Police Special Order 93-12)
- The landlord shall be fined \$200 to \$500 for each day the lockout occurs or continues.
- The tenant may sue the landlord to recover possession of the unit and twice the actual damages sustained or two months' rent, whichever is greater.

[Chapter 9 is devoted to the subject of lockouts and illegal evictions.]

Prohibition on Retaliatory Conduct by Landlord

[Mun. Code ch. 5-12-150]

A tenant has the right to complain or testify in good faith about their tenancy to governmental agencies or officials, police, media, community groups, tenant unions or the landlord. A landlord is prohibited from retaliating by terminating or threatening to terminate a tenancy, increasing rent, decreasing services, bringing or threatening to bring an eviction action, or refusing to renew a lease agreement.

[More information can be found in Chapter 10, entitled "Retaliation by Landlord."]

Attorney's Fees

[Mun. Code ch. 5-12-180]

Except in eviction actions, the prevailing plaintiff in any action arising from the application of this Ordinance shall be entitled to recover all court costs and reasonable attorney's fees. (eff. 1-1-92)

Where Can I Get A Copy of the Ordinance?

For a copy of the Ordinance, visit the Office of the City Clerk, Room 107. City Hall, 121 North LaSalle Street, Chicago, Illinois, or view it at the Municipal Reference Library, Harold Washington Library, 5th Floor, 400 S. State Street, Chicago, Illinois.

Chapter 2

Fair Housing

Housing Matters

Introduction

It is illegal to discriminate in any real estate transaction including rental, sale, terms and conditions of the rental or sale, advertising and lending. There are four major agencies in Chicago that handle housing discrimination complaints: Chicago Commission on Human Relations (CCHR), Cook County Commission on Human Rights (CCCHR), U.S. Department of Housing and Urban Development (HUD), and Illinois Department of Human Rights (IDHR). You may also file suit in federal court under the Federal Fair Housing Act.

While all handle housing discrimination complaints, there are some differences in the types of discrimination covered, i.e. who is covered (protected classes) the limitations on what property and who can be the subject of a complaint, and the time period in which a complaint must be filed. Parental status and familial status are considered to be the same thing. Also, sex discrimination includes sexual harassment.

The information below is presented to give a general idea of the provisions of each agency. Each agency has specific provisions, for example, in regard to accessibility for the disabled. Complete information is available from the enforcement agencies or from a fair housing organization. See the end of this Chapter for information on what to do if you are being discriminated against or sexually harassed.

Types of Discrimination Covered by Government Agency

Chicago Commission of Human Relations

Protected Classes:	race	color
	national origin	religion
	ancestry	parental status
	disability	age
	sexual orientation	marital status
	military discharge	sex
	source of income	<i>(including sexual harassment)</i>
	<i>(including Housing Choice Voucher Program – Section 8)</i>	

Covered Properties: Any housing accommodation that is for sale, rent, or lease. No exemptions.

Time Limitations: 180 days from the act of discrimination.

Cook County Commission on Human Rights

Protected Classes:	race	color
	national origin	religion

ancestry parental status
disability age
sexual orientation marital status
military discharge housing status
source of income
sex (including sexual harassment)

Covered Properties: Residential Property that is for sale, rent, or lease. No exemptions.

Time Limitations: 180 days from the act of discrimination.

U.S. Department of housing and Urban Development

Protected Classes: race color
national origin religion
familial status disability
sex (including sexual harassment)

Covered Properties: Any building occupied or intended to be occupied as a residence and vacant land that is for sale or lease for the construction of such a building. Although there are exemptions, such as buildings of 4 units or less if owner occupied, there are qualifications to the exemption, so that most buildings are covered for nearly all of the types of discrimination prohibited. For example, the exemption does not apply to discriminatory statements or advertising, including sexual harassment. Different standards apply for multi family buildings subject to accessibility provisions.

Time Limitations: 1 year from the act of discrimination.

Illinois Department of Human Rights

Protected Classes: race color
national origin religion
ancestry familial status
disability age
marital status military status
sex (including sexual harassment)

Covered Properties: Residential buildings. Exemption for buildings of 5 units or less if occupied.

Time Limitations: 1 year from the act of discrimination.

Familial and Parental Status Discrimination

Fair Housing law prohibits the following acts:

1. Discrimination in the terms and condition of any real estate transaction, including residential leases, based on family status, including the number or ages of children.
2. Publishing, circulating, issuing or displaying any notice, advertisement, sign, or other writing that discriminates against families in connection with any real estate transaction, including residential leases.
3. Refusing to show any residential property, which is listed for rental or for sale, on the basis of family status.
4. Knowingly representing that a residential unit for sale or rental is not available for inspection, sale, rental, or lease, when such property is in fact available to other individuals whose family status is different.

Who is legally protected against familial status discrimination?

1. A parent
2. A person with legal custody of a minor or disabled child or children
3. The designee of the parent or legal custodian with the parent or custodian's written permission
4. Pregnant women
5. Anyone securing legal custody of a child under age 18, including foster parents

A landlord can lawfully deny housing to a family if the family's size would violate the occupancy requirements under municipal codes, if those codes are reasonable. Often, it takes the filing of a complaint to determine what is reasonable. Also, housing for older adults is exempt from the prohibition on familial status discrimination if the housing is intended and operated for occupancy by at least one person 55 years of age or older per unit and at least 80 percent of the units are so-occupied.

Renter's Resource Guide Notes:

- 1. A landlord cannot discriminate against you because you have children**
- 2. The city, country, state and federal government all have laws against familial status discrimination**
- 3. Enforcement agencies are listed on following pages**

Fair Housing Law Prohibits Sexual Discrimination

Sexual harassment occurs when there is any unwelcome sexual advance, request for sexual favors, or conduct of a sexual nature regarding the rental or purchase of real property where:

1. Giving in to such conduct is made an explicit or implicit term of the rental or sales transaction.
2. Giving in to or rejecting the sexual conduct is used as the basis for any decision affecting the individual's purchase or rental of the property.
3. The conduct has the purpose or effect of substantially interfering with an individual's rental or purchase of a property or creates an intimidating, hostile, or offensive environment with respect to the rental or purchase of that property.

What can you do if you have been discriminated against?

1. WRITE DOWN everything that happens with names, dates, and locations.
2. REPORT THE INCIDENT to any of the following agencies. You may contact a private fair housing organization to assist you, or you may contact one of the enforcement agencies directly.

Private Fair Housing Agencies Serving Chicago

**Access Living
(for Disability discrimination)**
614 W. Roosevelt Road
Chicago, Illinois 60607
312 253-7000 Voice
312 253-7016 TTY

**Chicago Lawyers' Committee For
Civil Rights Under the Law, Inc.**
100 N. LaSalle, Suite 600
Chicago, IL 60602
312 630-9744
312 630-9749

**The John Marshal Law School
Fair Housing Legal Clinic**
28 E. Jackson Blvd. Suite 500
Chicago, Illinois 60604
312 786-2267

**Leadership Council For
Metropolitan Open Communities**
111 W. Jackson, 12th Floor
Chicago, IL 60604
312 341-5678
800 786-6736 TDD

Enforcement Agencies

All of these agencies have filing deadlines that require a claimant to file within a certain time period after each incident occurs. These deadlines are listed earlier in this chapter.

Chicago Commission
On Human Relations
740 N. Sedgwick, 3rd Floor
Chicago, Il 60610
312 744-4111 Voice
312 744-1088 TTY

U.S. Department of Housing and
Urban Development (HUD)
77 W. Jackson Blvd.
21st Floor
Chicago, Il 60604
800-669-9777 voice
800-927-9275 TDD

Cook County Commission
On Human Relations
69 West Washington Street, Suite 2900
Chicago, Il 60602
312-603-1100 voice
312-603-1101 TDD

Illinois Dept. of Human Rights
100 W. Randolph St. Ste. 10-100
Chicago, Il 60601
800-662-3942
312-814-6200 voice
312-263-1579 TDD

Chapter 3

THE RENTAL AGREEMENT *(Otherwise Known As the Lease)*

A lease is a contract containing promises between you and the landlord. There are two types: a written lease and a spoken or oral agreement. Both are recognized by the courts and can be legally binding. Understanding what you are agreeing to when signing a lease or what you are agreeing to orally with your landlord is very important. The most common written lease is the standardized form lease. A standardized written lease may contain certain clauses that are considered illegal in Chicago and, therefore, cannot be enforced by a court. Also, an oral promise (to make repairs, for example) made by the landlord prior to signing the lease may not be binding if it is not added to the written lease.

Take the time to read the lease and be prepared to ask your landlord questions. Compare the terms given to you by your landlord with Chicago's Residential Landlord and Tenant Ordinance Summary ("the Summary"). The landlord must give you this Summary when you enter or renew a rental agreement. While renters may not be in the best position to negotiate terms in the rental agreement, reading the Summary of the Ordinance that your landlord should give you will alert you to rights that you may not even know you have. You may never have any problems with your landlord, but if you do, the more educated you are about your rights and what your lease contains, the better prepared you will be to handle them. Remember, knowledge is power! Read on for more detailed information.
[For information on Housing Choice Voucher Program Leases, please see Chapter 13.]

Oral Leases

1. Oral Leases (Spoken Agreements) Are Contracts

Oral leases are legal. There is no law requiring a written lease. The only exception to this rule is an agreement to rent an apartment for more than one year. Leases over a year must be in writing. If you and your landlord decide to have an oral agreement for a length of less than one year, it can be made for any length of time. In Chicago, these are sometimes week to week leases but are most commonly month to month leases. In a month-to-month, you agree to pay rent every month on or before a set date. Your tenancy continues automatically each month until you or your landlord properly terminate it.

2. Notice is Required to End the Lease or Change the Terms

If you, as a party to an oral lease, want to end the tenancy, you must give written notice to the landlord. Likewise, if your landlord wants to end your tenancy, he must notify you in writing. The length of notice required is at least thirty (30) days for month-to-month tenancies. The courts are very strict in enforcing the length of time provided by the notice. A judge will find a twenty-nine (29) day notice insufficient, and any eviction case based on an insufficient notice will be dismissed. Similarly, if the tenant fails to give sufficient notice prior to vacating the apartment, the tenant may be liable for additional rent.

If the landlord wants to change any of the agreed upon terms or conditions of the oral agreement, the law also requires that thirty (30) days written notice be given to the tenant before any change can take place. Common changes include a rent increase, use of storage areas, or moving the rent payment date.

3. Notice Must Be Served at the Proper Time

A notice to end or change an oral lease must be served within the proper time for the notice to be legally effective. For example, in a month-to-month agreement, if the rent is due on the first day of the month and the landlord wants to terminate your tenancy or raise your rent at the end of that month, the landlord must serve the notice on or before the last day of the prior month in a month of 30 days. This means that to terminate a tenancy or raise the rent at the end of June, for example, the landlord must serve the notice no later than the last day in May. If the landlord wants to end the tenancy or change one of the terms or conditions for the end of a month that contained 31 days the law requires that s/he serve the notice on or before the first day of the month.

4. Tenant Must Give Notice to Landlord before Terminating

The law also requires that you give the landlord at least a thirty- (30) day notice if you want to end you month-to-month lease. Failure on your part to provide the proper notice could allow the landlord to deduct one month's rent from your security deposit or allow your landlord to sue you for an additional one month's rent. If you are a week-to-week or month-to-month tenant, keep copies of all the notices you send to the landlord and records of the dates you served the notices. Send them by certified mail, if possible.

5. Retaliation Is Illegal!

Neither party is required to state a reason for the termination of a month-to-month tenancy. However, you should always analyze the landlord's possible motivation for wanting you to move out or increasing the rent. The Chicago Residential Landlord and Tenant Ordinance, as well as Illinois Law, makes it illegal to retaliate against you for making a complaint to City officials about the condition of your apartment, seeking assistance of a community organization regarding building code violations, or exceeding other legal rights or remedies. Chapter 10 contains information regarding landlord retaliation.

Written Leases

1. Tenants Should Read Written Leases Carefully

A written lease is a contract (much like any other contract) between the tenancy and the landlord. Its purpose is to express the intentions of the parties to the agreement. Experienced renters know too well that tenants have little, if any, bargaining power with landlords. You should always read the entire lease carefully before signing it because the clauses contained in it may be legally binding. The law does make some residential lease clauses unenforceable, whether or not you sign the lease, but the best safeguard is to read the contract and know what you are signing. The Chicago Residential Landlord and Tenant Ordinance list several of these unenforceable clauses and further discussion of them follows.

2. Written Leases Can Be Modified

When the landlord presents a lease, an offer is being made. Every clause in the lease can be negotiated and changed. You should not hesitate to ask about provisions or clauses that you do not fully understand. If there is a provision that is unacceptable, attempt to have the landlord cross it out or modify it. Just remember that if you recognize an illegal clause in your lease (which is a real possibility once you have become familiar with this booklet!), it is unenforceable even if you accept the lease and sign it.

3. Promises Not in the Written Lease May Not be Binding

If the landlord makes an oral promise to repair or provide other services, or to reduce your rent in exchange for your working on the building or paying part of the building's utilities, make sure that these promises are put in writing. You can either write these directly on the lease or on an attached piece of paper called either a rider or an addendum. Once you sign the lease, the deal is done. The courts may not recognize any promise by the landlord made before you signed the written agreement. Make certain that all agreements are either written into the lease or that any rider is signed by both parties and attached to the lease.

4. Make a Copy Of The Written Lease

You should make a copy of the lease after you sign it and before you give it back to the landlord. You are entitled to a signed copy of your lease, but many landlords fail (and even refuse) to return copies of the signed lease to the tenant. Insist on this. It is your right.

5. Unenforceable Lease Clauses

The Municipal Code of the City of Chicago recognizes that landlords—due to the scarcity of decent affordable housing—have superior bargaining power over tenants when it comes to negotiating rental housing. As mentioned previously, the Ordinance prohibits landlords from enforcing certain clauses that they put in leases. You may be able to recover actual damages sustained because of the enforcement of a prohibited provision. If the landlord attempts to enforce a prohibited provision, the tenant may recover two months' rent as damages under the Ordinance. For dwelling units located in the City of Chicago and covered by the Residential Landlord and Tenant Ordinance, **the following types of lease clauses may not be enforced:**

a. Waiver Clauses

Any clause that WAIVES, or forgoes, the RIGHTS, remedies, or obligations of the Ordinance is unenforceable. For example, the landlord cannot waive his obligation to maintain the premises in compliance with the building code. Tenants can use the remedies provided in the Ordinance, such as repair and deduct, even if the lease says they cannot.

b. Confession Clauses

Any clause that authorizes any person to CONFESS JUDGMENT on a claim arising out of the rental agreement is unenforceable. A confession of judgment clause allows the landlord to go into court, without notifying the tenant, and obtain a judgment for rent or possession against the tenant by showing the judge the lease clause in which the tenant “admits” that the landlord deserves to obtain the judgment. State law also renders such clauses null and void in consumer transactions.

c. Liability Limitation Clauses

Any clause that LIMITS the legal LIABILITY of the landlord or Tenant is unenforceable. The landlord cannot limit his or her responsibility for injury or damage suffered by the tenant due to the landlord’s intentional or negligent actions. State law, as well as the Ordinance, prohibits landlords from using these clauses.

d. Waiver of Proper Service Clauses

Any clause that waives the proper service of any written TERMINATION OF TENANCY NOTICE required by law is unenforceable. The law requires a written termination of tenancy notice to be served on the tenant in the proper manner before the landlord can begin an eviction lawsuit. A landlord cannot change any of these requirements with a clause in the lease. In apartments not covered by the Ordinance, the landlord can put in a clause that waives your right to the proper manner of termination as described in the Ordinance. However, if the landlord elects to give you notice, he or she must still follow legal requirements set out by state law.

e. No Jury Trial Clauses

Any clause that WAIVES a person’s right to a way JURY TRIAL is unenforceable. Tenants must make their request for a jury trial – called a jury demand – on or before the date the court hears the case for the first time. If the tenant fails to do so, the tenant risks losing the right to a jury trial.

f. Attorney’s Fees Payment Clause

Any clause that provides that the TENANT will PAY the landlord’s ATTORNEY’S FEES for a lawsuit arising out of the tenancy, except as provided by court rules, statute, or ordinance, is unenforceable. Landlords use such a clause to make you pay his or her attorney fees even if you as the tenant win the case.

The ordinance only gives attorney fees to the prevailing plaintiff in lawsuits brought to enforce the rights and remedies protected by the ordinance.

g. Unequal Cancellation Clauses

Any clause that permits either you or your landlord to CANCEL or TERMINATE the rental agreement at a DIFFERENT TIME or within a shorter period than the other

party-unless you agree to it on a separate written document – is unenforceable. Under the Ordinance, a landlord may not enforce a lease clause that allows him or her to cancel the lease without giving the tenant the equal right to cancel.

For example, landlords may not use a clause that allows them to terminate the lease upon the sale of property unless they give tenants the same right, or unless they disclose this clause in another written document that is clear and unconditional. Be aware that if you live in an apartment not covered by the Ordinance (an owner-occupied building with six or less apartments). This type of clause may be allowed, However, any such one-sided clause must be clear, absolute, and unconditional.

h. Excess Late Fee Clauses

Any lease clause that authorizes the landlord to assess a LATE FEE or RENT DISCOUNT for early payment in EXCESS of the amount set by the Ordinance is unenforceable. The Ordinance originally prohibited landlords from charging a late fee over \$10.00 per month. However, some unscrupulous landlords attempted to get around this by offering tenants a “discount” of \$25.00, for example, if they paid the rent before the first month. This proved to be nothing more than a hidden and excessive late fee. The Ordinance was amended to prevent this practice.

Now, the maximum late fee or discount for early payment is \$10.00 per month for tenants who pay \$500.00 or less in monthly rent. For those tenants who pay more than \$500.00, the maximum late fee is \$10.00 plus 5% for any amount of monthly rent in excess of \$500.00. For example, a tenant who pays \$600.00 in rent per month could be legally assessed a late fee of \$15.00 per month: \$10.00 for the first \$500.00, plus 5% of the additional \$100.00 or \$5.00; $\$10.00 + 5.00 = \15.00 .

i. No Subletting Clauses

Under the Ordinance, any clause in your lease that does not allow you to sublet your apartment is unenforceable. Tenants have the right to rent out their apartments for part or all the remaining time on the lease. However, the subtenant must meet the same qualifications applicable to all tenants.

6. Lease End On The Stated Termination Date

If you have a lease with a specified termination date (rather than one that renews automatically each month), it will automatically end on that date unless some event – such as a breach of the lease you may move out, the landlord may choose to treat you as a holdover tenant and may file an eviction against you.

7. New Tenancy Created if Rent is Accepted After Termination

If you stay beyond the termination date and the landlord accepts rent from you, a new month – to – month tenancy is created, and must be terminated as set out in the oral lease section of this chapter.

8. Landlord Is Required To Give Notice of Non-Renewal

The Ordinance requires your landlord to give you notice in writing at least thirty (30) days prior to the termination date of the rental agreement if the landlord intends not to renew the existing rental agreement. If the landlord fails to provide the written notice, you may remain in the dwelling unit for up to (60) sixty days after the date the landlord gives you written notice of non-renewal. The terms and conditions

of tenancy during this 60-day period remain as they were under the previous rental agreement before it ended.

9. The Ordinance Limits the Renewal Period

The Ordinance prohibits the landlord from requiring you to renew a rental Agreement more than ninety (90) days prior to the termination date of your current rental agreement. If the landlord violates this provision, you can recover one month's rent or actual damages, whichever is greater.

Unfortunately, the Ordinance is silent on the amount of time a landlord must allow you to accept the new lease. During the lawful (90) ninety day period, the landlord can still pressure you to sign the new agreement quickly, for example, by allowing you only one week to accept the new lease or face non-renewal.

Chapter 4

THE LANDLORD'S RESPONSIBILITY

Under the Chicago Residential Landlord and Tenant Ordinance, the landlord has the responsibility of maintaining his building in compliance with the Municipal Code and making all repairs promptly. The following is a list of some of the provisions with which the landlord must comply:

- a. Appliances:** Must be maintained and repaired as necessary if supplied by the landlord.
- b. Basements and Cellars:** Must be kept in a safe and sanitary condition including the removal of excess materials that create a fire hazard and making sure there are no leaks.
- c. Elevators:** Must be maintained in buildings ten stories or higher.
- d. Exits:** Must provide a safe and unobstructed means of escape from every apartment to the ground level.
- e. Exterminating:** Building must be kept free of rats and reasonably free of insects.
- f. Exterior:** Roof must be kept water-tight.
- g. Fire Extinguisher:** If the building is greater than three stories, there must be a fire extinguisher on each floor.
- h. Garbage:** Landlord must supply and maintain trash facilities.
- i. Heat:** Must provide heat to all apartments from September 15 until June 1. The following average temperatures must be maintained throughout the entire apartment:
 - 68 degrees from 7:30 a.m. to 10:30 p.m.
 - 63 degrees from 10:30 p.m. to 7:30 a.m.
- j. Hot Water:** Sinks, bathtubs and showers must be provided with 120-degree water from 6:00 a.m. to 10:30 p.m.
- k. Interior:** Walls ceilings and floors must be kept in sound condition. Floors must be free of rotting floorboards. Walls and ceilings must be free of loose paint or plaster.
- l. Lighting of halls:** Halls and stairways must have adequate lighting at all times.

m. Plumbing and Electrical: Must be maintained in good working order at all times. Switchboards and circuit breakers must be accessible to the tenant.

n. Poisonous Paint: Must be free of all lead-based paint.

o. Public areas: Landlord must keep all shared areas of building safe, clean and sanitary.

p. Screens; Must be provided to all apartments on ground floor and floors 1-4 from April 15 to November 15.

q. Security Devices for Apartment: Landlord must supply and maintain a dead bolt lock and a viewing device on each door to the apartment. Windows within 20 feet of ground level or 10 feet above an adjacent roof, exterior stairway, fire escape, ramp or porch must have ventilation locks.

r. Building Security: Every building entrance must be secured by a door with a dead bolt lock.

s. Smoke Detectors: Must have at least one smoke detector per apartment and one at the top of each interior stairwell.

t. Stagnant Water: All yards, courts, passageways and other portions of the building lot must be kept free of stagnant water.

u. Stairways and Porches: Must be kept in safe condition and sound repair. This includes the railings of porches and stairs.

v. Water: Hot and cold running water must be maintained to sinks, lavatories, baths and showers.

w. Water Fixtures: Landlord must provide a flush toilet, lavatory basin, bathtub or shower, and kitchen sink.

x. Windows: Must be kept in good condition, fit well, open easily and be tight.

[The Housing Choice Voucher Program has additional landlord responsibilities, known as Housing Quality Standards. Please see Chapter 13 for more information.]

Housing Matters

Chapter 5

TENANT SELF-HELP REMEDIES

The Chicago Residential Landlord and Tenant Ordinance provides explicit self-help remedies that tenants should use when they discover defective conditions in their apartments. It is essential to contact an attorney to begin using these remedies, but because there exists the possibility of legal action by the landlord, tenants should document and keep records of their activities.

These remedies are based on a theory similar to those we rely upon when we purchase goods at a store. For example, if you buy a stereo and then discover that it has a defect, you can return it to the store to get a replacement, have it repaired, or obtain a refund. The law implies a guarantee when we purchase goods that allows us a remedy if the goods are defective or not fit for the purpose they were intended.

A similar guarantee is implied in every residential lease agreement. In legal terms, this guarantee is called the “implied warranty of habitability.” This warranty means that your landlord guarantees that your apartment meets most of the standards set out in Chicago’s Building Code and is fit for living in. The Illinois Supreme Court has defined “fit for living in” to be an apartment that is safe and sanitary. Minor violations of the Building Code or cosmetic defects must be substantial. But like the example of the defective stereo, if your apartment does not substantially meet the standards of the Building Code, you are not receiving full value for the rent you are paying, and you may be entitled to repairs or a reduction in rent.

If you discover defective conditions in your apartment, first call your landlord to see if s/he will repair the defects. If the landlord does not respond satisfactorily, you should consider one of the remedies that follow. Remember, proof of notice of the defects to your landlord and using the remedies correctly if the landlord fails to repair are very important. If the landlord is uncooperative or not responsive and the defects appear to be serious or substantial, you should also consider calling the City Department of Buildings to arrange an inspection. The number to call is (312) 744-5000.

Repair and Deduct

If your apartment needs only minor or inexpensive repairs, “repair and deduct” is an effective way to have them completed. The repair and deduct remedy allows you to have the repairs done and then deduct the cost of the repairs from the rent payment. As always, there are steps that you must follow closely to avoid later problems. The Ordinance sets these out as follows:

1. Make a list of the necessary repairs. Be as detailed as possible. This is your chance to tell your landlord what you want repaired.

2. Send a copy of the list to your landlord along with a letter that states that you will exercise your legal right to pay for the repairs and deduct that amount from the next rent payment if the repairs are not completed within 14 days of receipt of the letter. Repair and deduct cannot begin until the 15th day after the landlord receives the demand letter. There is an example of this kind of letter in Chapter 7.
3. Send the letter by certified or registered mail, return receipt requested, or hand-deliver it to your landlord. If you give the letter to your landlord personally, have a witness go with you to be sure of the day your landlord received the letter. Be sure to keep a copy of the letter.
4. Do not exceed \$500 or of the monthly rent for the repairs, whichever is greater. If you pay less than \$500 in monthly rent, you cannot “repair and deduct” in excess of rent you pay each month.
5. Submit a paid bill to your landlord from an appropriate tradesman or supplier for the cost of the repairs. The costs must not exceed what is reasonable for such services. Remember to keep a copy of all bills and receipts.

Renter’s Resource guide Notes:

1. Make a detailed list.
2. Send a 14-day notice to landlord with this list
3. After 14 days, if the landlord has not responded, make the repairs yourself and deduct the cost from the rent.
4. Never deduct more than \$500 or of your total rent.

Withholding Rent

If your landlord fails to maintain the apartment and common areas in the manner defined by the Building Code, you may reduce your rent until your landlord fixes the problem if you follow the steps listed below carefully. Failure to do so could allow your landlord to successfully evict you for nonpayment of rent.

1. Make a detailed list of the repairs necessary in each room of the apartment and common areas. If possible, take pictures of the defective conditions and have witnesses inspect the conditions.
2. Send a copy of this list to the landlord along with a letter that states that you intend to withhold a portion of your rent if the landlord does not make the necessary repairs within 14 days of receipt of the letter. Rent withholding cannot begin until the 15th day after the landlord receives the demand letter. A sample letter can be found in

Chapter 7. The letter may state the amount you intend to withhold and should be based on the reduced value of the apartment in its defective condition.

3. Send the letter by certified or registered mail, return receipt requested, or hand-deliver it to the landlord with a witness to be sure of the day your landlord received the letter. Be sure to keep a copy of the letter.

4. Be sure you are conservative in the amount of rent you withhold! The amount is based on the reduced value of your apartment, depending on the problems in your apartment and their severity. You could be evicted if you withhold more than what the court finds to be justifiable. (if you are living there, the courts will presume that the apartment has some value.) Keep in mind that you always have the right to sue the landlord for any additional amount overpaid and not recovered through rent withholding.

5. Hold on to any money withheld. Although not required by law, you may want to put the withheld rent in a special bank account called an “escrow.” If the judge finds that you have withheld too much, the money is available to you for back rent payment and prevents an eviction. These funds can also be useful in negotiating repairs.

Chapter 6

LACK OF ESSENTIAL SERVICES

If your landlord fails to supply essential services, contact your landlord immediately. Essential services include heat, running water, hot water, electricity, gas, and plumbing. Also contact your landlord immediately if conditions become an immediate danger to health and safety. If your landlord's response to either situation is not helpful, report the problem to the City's complaint line at (312) 744-5000. The City responds quickly to complaints about the lack of essential services. The Chicago Residential Landlord and Tenant Ordinance also provides you with some things you can do yourself to alleviate the problem. For example, you may obtain reasonable amounts of heat, water, etc., or find alternative housing at the landlord's expense. Follow these guidelines to protect yourself in case your landlord decides to attempt legal action.

- You must give the landlord written notice of the problem stating the essential services that are lacking. The type of notice and manner of service should follow the guidelines given in the previous chapter. It must be done in a manner reasonably calculated to prove the landlord received the notice.
- You may get a space heater, bottled water, or other reasonable replacement for an essential service and deduct the cost from your rent. You must keep the receipts and provide copies to your landlord when you make the deductions.
- If conditions force you to find substitute housing, you are excused from paying rent for as long as the lack of essential services exists. Also, you are entitled to recover the cost of substitute housing from you landlord in a lawsuit as long as it does not exceed your monthly rent. Consult an attorney prior to exercising this remedy. The Ordinance does not entitle you to deduct the cost of substitute housing from future rent, and the law requires you to mitigate damages, meaning to keep the cost as low as possible.
- If the problem is not corrected within 24 hours from the time you gave the notice to the landlord, you have the right to withhold an amount from the rent that reflects the reduced value of the apartment. (We advise you to keep these estimates conservative.)
- If the problem is not corrected with 72 hours of the receipt of the written notice, you may legally terminate your lease agreement. Once this is done you must move out within 30 days.

For other remedies available to you under the Ordinance, see the previous chapter, "Tenant Self-Help Remedies."

[For more information about the Lack of Essential Services for Housing Choice Voucher tenants, please see Chapter 13.]

Chapter 7

WRITING LETTERS TO YOUR LANDLORD

When writing to your landlord, be specific in describing the problems you are having. Do not exaggerate or under-emphasize the extent of the problem. The landlord may show this letter to a judge if your problem is ever litigated. You want to make sure it conveys the truth of the situation accurately to give yourself the best possible chance of winning the case.

Remember to have a witness come with you if you deliver the letter to you landlord personally. And if you use the postal service, send it certified mail so you have proof that the landlord received it. Always keep a copy of anything you write to your landlord – you may need it to beck you up in court.

A Sample Letter for Rent Withholding and Repair and Deduct

DATE
NAME OF LANDLORD
ADDRESS OF LANDLORD

Mr./Ms./Mrs. Landlord (name):

Below is a list of problems in my apartment and building that need to be corrected. The problems are violations of The Chicago Residential Tenant and Landlord Ordinance and my lease agreement. Under the Ordinance, if you do not correct these problems within 14days, I may repair these problems and deduct the cost from my rent or withhold a portion of my rent to reflect the decreased value of my apartment.

Repairs needed (list as many items here as you need to)

- 1.
- 2.
- 3.

Sincerely,

YOUR NAME
ADDRESS AND APARTMENT NUMBER

A Sample Letter for Terminating a Lease

DATE

NAME OF LANDLORD

ADDRESS OF LANDLORD

Mr./ Ms./ Mrs. Landlord (name):

The following is a list of problems that exist in my apartment or in the common areas of the building:

- 1.
- 2.
- 3.
- 4.

These serious problems are in material noncompliance with The Chicago Residential Tenant and Landlord Ordinance and render my apartment not reasonably fit and habitable.

If these problems are not corrected within fourteen (14) days, I hereby inform you that I intend to terminate the rental agreement, which is my right under the Ordinance. I will move out within thirty (30) days after the rental agreement is terminated.

(Use this part of the letter to tell the landlord of your other attempts at getting repairs and of any suggestions you may have to help resolve the matter.)

Sincerely,

YOUR NAME

ADDRESS AND APARTMENT NUMBER

A Sample Letter for Lack of Heat:

DATE
NAME OF LANDLORD
ADDRESS OF LANDLORD

Mr./Ms./Mrs. Landlord (name):

This notice is to inform you of the lack of sufficient heat in my apartment. Since (GIVE DATE AND TIME OF INITIAL FAILURE TO PROVIDE HEAT) I have been without heat (OR SUFFICIENT HEAT) throughout the entire apartment (OR SPECIFY WHICH PART OF THE APARTMENT LACKS HEAT) and I would like you to correct this problem immediately.

I have notified you (OR THE MANAGER, OF JANITOR, ETC.) about the heat problem by telephone, but I am presenting this notice in writing in order to exercise my rights under The Chicago Residential Landlord and Tenant Ordinance. Under the Ordinance I have the right to obtain reasonable amounts of heat and deduct this cost from my rent. I also have the right to withhold from my monthly rent an amount that reasonably reflects the reduced value of my apartment if the heat is not restored within 24 hours of receipt of this notice.

Please inform me as to how you intend to correct this problem. I can be contacted at (GIVE TELEPHONE NUMBER, TIME AND PLACE WHERE YOU CAN BE REACHED).

Sincerely,

YOUR NAME
ADDRESS AND APARTMENT NUMBER

Chapter 8

THE EVICTION PROCESS

Renter's Resource Guide Notes:

1. Landlord must give you notice
2. You may pay rent or fix problem when you get notice
3. If landlord accepts rent he has to waive his right to eviction
4. You have a right to try your case before a jury

If your landlord wants to remove you from the premises, s/he must follow the law. The only person in Cook County who can evict anyone is the Sheriff's Department, and they can only do so after an Order for Possession has been granted to the landlord by a judge of the Circuit Court of Cook County after an eviction suit has been filed. Any other method used to get you out of the apartment is a LOCKOUT (see the following chapter) and is illegal.

There are three basic grounds for eviction. The first, and most common, is for nonpayment of rent. The second is when the lease has expired. The third ground is when you have violated a condition of the lease, such as a restriction on pets. No matter what the grounds for eviction are, there are specific steps that a landlord must take in order to evict a tenant legally. It is important for you to remember that your landlord must follow all the steps before you can be lawfully removed from your apartment by the Sheriff.

1. Notice of Termination of Tenancy

A landlord must always give you notice that your tenancy is being terminated when s/he wants possession of your apartment before the natural expiration of the lease agreement. Depending on the kind of lease you have or the reason your landlord wants you out, s/he must give you a specific kind of notice telling you that your tenancy will terminate on a certain date. The courts interpret the law very strictly regarding this type of notice and the observance of the time and dates specified in the notice. Remember that this notice is required to terminate your tenancy and to allow the landlord to begin the eviction process in court. However, service of the notice does not give the landlord any immediate right to possession or

the right to interfere with your possession of the apartment. Review these types of notices to see which applies to your situation:

a. Five-Day Notice

If the landlord claims you have not paid rent, s/he must serve you with a notice that specifies the amount owed. If you offer the full amount that you owe within five days of receiving the notice, the landlord must accept it and the eviction process should end. The landlord is not obligated to accept rent after the 5 days expire, but if the landlord does, the eviction process should not continue, particularly if the building is covered by the Ordinance. If you offer the rent within the 5 days and the landlord does not accept it, consult an attorney using the reference guide in the back of this booklet.

b. Ten-Day Notice

If the landlord claims you have violated a condition of the lease, s/he must serve you with a notice that identifies the violation and informs you that if you correct the problem within 10 days, your tenancy will not terminate.

c. Seven-Day or Thirty Day Notice

If there is no written lease, the landlord can ask you to move without giving you any reason. If rent is paid monthly, a thirty-day notice must be given. If rent is paid weekly, a seven-day notice must be given.

d. Notice of Non-renewal

If your lease agreement is covered by the Ordinance and your landlord does not want to renew your written lease for a new term, s/he must give you notice of his or her intention not to renew at least thirty (30) days before the termination date of the lease. The law allows you sixty (60) days from the time you receive a notice of non-renewal to leave the apartment if your landlord fails to give the notice in time.

2. Service of Notice

There are many ways a landlord can serve a tenant with a notice of termination of tenancy:

- The landlord can deliver a copy directly to the tenant.

- The landlord can leave a copy with a resident of the apartment who is at least 13-years old.

- If neither, # 2 or # 3 is possible, the landlord may post the notice on the 7th floor of the Daley Center and mail a copy of the notice to the tenant by certified or registered mail, return receipt requested. If notice by posting is utilized, the landlord must present an affidavit to the court detailing all efforts to locate the tenant.

- For an abandoned unit, the landlord can post a copy on the premises.

- At least one case has noted that the above methods are not exclusively and that if a landlord slips the notice under the door and the tenant acknowledges receiving it, notice is proper.

3. The Eviction Suit

Once your landlord has given you proper notice, the next step in the eviction process is to file the eviction suit. If you fail to move out or correct the breach of lease addressed in the notice, before the time period in the notice expires, the landlord can file an eviction lawsuit. The sheriff will serve you a summons to appear in court. The trial will be held at least 14 days after the summons is issued.

Although you have the right to represent yourself in court, consultation with an attorney is always a good idea. Contact an attorney as soon as you receive a five-day, ten-day or other type of notice. See our reference guide for a list of legal service agencies that may be able to help you.

4. You Have a Right to Have Your Case Heard by a Jury

When you first appear in court, tell the judge that you want to file a jury demand. It is important that you do this the first time you appear in court or you may lose the right to do it later. Then (or before) go to Room 602 to the Kent Law School Help Desk and ask them to help you file a jury demand.

5. Judgment and Removal

If the judge finds in favor of the landlord, s/he will issue an order of possession. The order may give the landlord immediate possession or it may stay (postpone) the landlord's possession for 7 to 21 days which would give you that amount of time to move out. If you are not out of the apartment in the time specified by the judge, the landlord can place the order of possession with the sheriff, who will come and physically remove you and your belongings from the apartment. In other words, the actual eviction will not take place until the landlord pays the sheriff a fee to execute the eviction order. It is customary, but not required, for the sheriff to send a letter advising you that the actual eviction will take place in 24 hours. Only the sheriff can evict you. Your landlord cannot evict you even if s/he has an order of possession. If your landlord tries to physically evict you, s/he is breaking the law. See Chapter 9 called "Lockouts," for more information. Also, the local police cannot evict you.

6. Landlord's Waiver of His or Her Right to Terminate

A landlord may waive his or her right to pursue the termination of your tenancy by accepting the rent from you after he serves you with a five-day notice. However, the judge can order the tenant to pay "use and occupancy" (rent) while the eviction case proceeds. If your landlord accepts partial rent payment during the five days, s/he may still be able to proceed with the eviction process.

[If you are a Housing Choice Voucher Program participant, please see Chapter 13]

Chapter 9

ILLEGAL EVICTIONS – LOCKOUTS

Renter's Resource Guide Notes:

- 1. A Landlord cannot evict you without going to court**
- 2. Only the Sheriff Can Evict You after a Ruling**
- 3. If You Are Illegally Evicted Call the Police**
- 4. Then Call a Lawyer**

Although your landlord is the owner of the property, you have legal possession of your apartment. The law prohibits your landlord from forcibly removing you from the apartment or from preventing your use of the apartment. If your landlord wants to legally evict you, s/he must terminate the tenancy by serving a proper notice, wait out the time period of the notice, commence an eviction suit, and obtain a judgment. The landlord can then have the sheriff remove your goods from the premises.

EVEN IF A COURT ISSUES AN ORDER OF POSSESSION TO YOUR LANDLORD, ONLY THE SHERIFF – NOT THE POLICE DEPARTMENT AND CERTAINLY NOT THE LANDLORD – IS AUTHORIZED TO REMOVE YOUR GOODS FROM THE PREMISES.

An attempt by your landlord to illegally evict you is called a “lockout.” The Ordinance considers the following actions by a landlord to be “lockouts.”

1. Plugging, changing, removing, or adding any locks;
2. Blocking any entrance;
3. Removing any door or window;
4. Interfering with any utility service;
5. Removing your property;
6. Removing or incapacitating appliances or essential fixtures;
7. Using or threatening force against you or your property; or
8. Any act that makes the apartment inaccessible or uninhabitable.

CALL 911 TO END A LOCKOUT!

The Ordinance requires the Chicago Police Department to investigate and end a reported lockout. Call 911 to get police assistance to end a lockout. Use the word “lockout” with the police dispatcher. If the officers are not helpful – they sometimes tell the tenant “it’s a civil matter” – call 911 again and request to speak with the watch commander. If the landlord can be found or called, the police should direct the landlord to end the lockout. If the landlord is not available, you should go to the nearest police area headquarters and file official charges.

If your landlord does lock you out in some way, you may sue him or her to get back into the apartment or have him or her stopped from making the apartment uninhabitable. Consult with an attorney, such as Lawyers’ Committee for Better Housing, for more help in this area. The landlord can also be fined between \$200 and \$500 for each day the lockout continues. If you establish that a lockout has occurred, you are entitled to get back into your apartment and get two month’s rent or twice the actual damages sustained, whichever is greater.

Chapter 10

LANDLORD RETALIATION

Renter's Resource Guide Notes:

If you assert your rights, your landlord cannot retaliate by:

- 1. Increasing your rent**
- 2. Trying to evict you**
- 3. Shutting off your utilities**
- 4. Or doing anything else that interferes with your tenancy**

To guarantee that the rights and remedies provided in the Ordinance serve tenants well, the law prohibits landlords from retaliating when you, as a tenant, assert your rights in good faith. **A landlord may NOT knowingly:**

1. Terminate a tenancy;
2. Increase rent;
3. Decrease services (such as shutting off heat);
4. Bring or threaten to bring an eviction lawsuit;
5. Refuse to renew a lease or tenancy; or
6. Interfere in some way with your tenancy

Because you have in good faith:

- Complained of code violations to a competent governmental agency, elected representative or public official charged with enforcing building, housing health, or similar codes;
- Complained of a building, housing, health or similar code violation or an illegal landlord practice to a community organization or the media;
- Sought the assistance of a community organization or new media to remedy a code violation or illegal landlord practice;
- Requested the landlord to make repairs to the premises as required by the building code, health ordinance, other regulation, or the lease;
- Became a member of a tenant's union or similar organization; and/ or
- Testified in any court or administrative proceeding concerning the condition of the premises;

- Exercised any right or remedy provided by law.

Landlord Retaliation Is Illegal

If the landlord retaliates by trying to evict you, you have a very good defense. With the defense of retaliation, you can either remain living in your apartment or terminate the rental agreement. In either case, you are also entitled to recover damages from the landlord in the amount of two months' rent or twice the actual damages sustained, whichever is greater, plus reasonable attorney's fees.

If you used any of the rights or remedies described above within twelve months of the Alleged retaliation by the landlord, there is a rebuttable presumption that the landlord's conduct is retaliatory. This means that the landlord is presumed by the court to have retaliated against you unless the landlord can prove some legitimate business reason for termination the tenancy, increasing rent or otherwise changing the rental agreement.

An example of a legitimate business reason for terminating a lease might be that you unjustifiably paid no rent for some time and owe the landlord money. Another possible reason might be that you breached the rental agreement by disturbing neighbors, by having pets, or by violating some other provision in the rental agreement. A landlord vindictive enough to retaliate against you for asserting your rights might also make up a supposed legitimate reason. But the landlord will not win his or her case unless there is proof that the alleged legitimate reason actually exists.

You should write down all the actions you take to assert your rights under the Ordinance. A tenant's journal or diary, copies of all notices and letters sent, photos, and names of witnesses can be invaluable in a retaliation case.

If your landlord tries to retaliate against you by illegally locking you out, or shutting off an essential utility, call the police.

Chapter 11

MOVING OUT

Moving out can be a complicated process and knowing your rights is extremely important. This knowledge can help solve problems that arise and keep you protected even after you have moved out. The following is a list of some of the items covered under the Ordinance.

1. Notify Your Landlord

If you have an oral rental agreement for a month-to-month tenancy, you must give your landlord (30) thirty days' notice before you move out. If you do not, you may be charged for the rent to the end of the next month. If you have a written lease that states a specific length of time for you to live in the apartment, you cannot break the lease by telling the landlord you are going to move. However you are not obligated to notify your landlord if you are moving out at the end of the term specified lease. For further information about leases, refer to chapter 3, entitled "The Rental Agreement."

2. Using Your Security Deposit as Last Month's Rent

The security Deposit can NOT be used as the last month's rent unless your landlord agrees. Your landlord does not have to accept your security deposit and can sue you to get the money. You may be able to get your landlord's permission to use the security deposit for rent, but make sure you get this agreement in writing. For further information on this subject, refer to Chapter 12.

3. Your Landlord Cannot force You to Move Out

Without a court order, your landlord cannot lock you out of your apartment to make you move or interfere with your apartment in any way (like removing doors, cutting off utilities or removing your property). See Chapter 9.

4. Abandoning Your Apartment

The law entitles you to possession of your apartment until a court determines otherwise and gives possession to your landlord. Your landlord, however, can determine that you have legally abandoned the apartment if:

- a. You tell your landlord you are not returning; or
- b. All the people entitled to live in the apartment have been gone for 32 days and the rent is not paid; or
- c. Most of your property has been moved out, all of the people entitled to live in the apartment have been gone for 21 days(or one rental period if rent is paid more than once a month) and rent is not paid.

5. Leaving Your Belongings Behind in the Apartment

If you move out of the apartment or the lease runs out and you leave some possessions behind, the landlord must leave the property in the apartment or store it somewhere safe for 7 days. You may be liable for storage charges. If the landlord reasonably believes the property is not worth the cost of storage or that the property would spoil, the landlord can throw it away immediately.

6. Attempting to End Your Lease Early

As a tenant, you can terminate a lease early through an agreement with your landlord or by using your right to end the lease for certain illegal landlord actions under the Ordinance or other laws. The law requires you to follow certain procedures your lease will not end legally and you may still be liable for the remaining rent even though you have vacated the premises.

If you fail to give proper notice when terminating your lease or if you abandon the apartment, the landlord must make a good faith effort to find another tenant at a fair rent. If the landlord finds another tenant, you may still owe the landlord rent for the time that the apartment was vacant and for which the landlord received no rent. If the landlord cannot find another tenant, you may owe the landlord all the remaining rent to the end of your lease plus the landlord's re-renting costs. For more information on leases, see Chapter 3.

If the landlord re-rents the apartment for less than what you were paying you will have to pay the difference between the amount the new tenant pays and your rent. For example, if your rent is \$500. per month and you move out three months early, and the landlord is able to find a new tenant but at \$450 per month, you may owe the difference between what you would have paid and what the next tenant is paying, or \$150.

7. You Have the Right to Sub-Let Your Apartment

If you want to move out early and have arranged to sublet the apartment, your landlord must accept any reasonable subtenant without charging any additional fees. Remember, you are still liable to the landlord for the rent if the subtenant does not pay it. If you plan to move and not return to the apartment, it is better to get a written agreement with your landlord to end the lease early. This may be called "Agreement and Release."

8. Moving Out Tips

1. Take pictures of the apartment, and ask a witness (preferably a non-relative) to go through the apartment with you to take notes on its condition.
2. Try to be present when your landlord or his or her employee walks through your apartment for the final inspection.
3. Ask for a signed copy of the claimed damages from the landlord after the walk-through inspection.(See Chapter 12).

[Information on Moving Out for Housing Choice Voucher tenants is in Chapter 13.]

Chapter 12

YOUR SECURITY DEPOSIT

When you rent an apartment, the landlord almost always ask for a security deposit. This is a sum of money that the landlord holds to cover any damage that may occur while you are living in the apartment. Although the landlord holds it, a security deposit remains the property of the tenant. The security deposit may be used only for damages that make the apartment un-rentable. A landlord is not to use the tenant's security deposit to redecorate the apartment. Deductions for cleaning carpets and appliances are not proper unless there is extraordinary damage caused by the tenant beyond normal wear and tear. The Chicago Residential Landlord and Tenant Ordinance includes several regulations concerning security deposits. The pertinent parts are as follows:

1. The person who receives the security deposit **must give you a receipt** that lists the amount of the deposit, the name of the landlord (if different from the person receiving the money), the date and a description of the apartment.
2. The landlord **must keep the deposit in a federally insured, interest bearing account** at a financial institution. The deposit may not be combined with the landlord's funds.
3. The landlord **must pay you interest** on the deposit at a rate determined annually by the City Comptroller. The interest must be paid to you within 30 days of the end of each 12-month period you have rented the apartment. Interest may be paid in cash or applied towards the next month's rent.
4. If the landlord intends to withhold a portion of the security deposit because the tenant caused damage to the apartment, the landlord **must notify the tenant in writing within (30) days**. In the letter, the landlord must supply the tenant with a **detailed list of damages** and the cost for each repair. A landlord may not deduct any amount from the security deposit unless the letter is sent. **A landlord has 45 days after a tenant moves out to return the entire security deposit or the balance** after proper withholding for damage, plus any accrued interest. In other words, if your landlord gives you a list of damages on the thirtieth day after you move out s/he has only 15 days thereafter in which to return the balance of your security deposit to you.
5. If building ownership changes, **both the old and new landlord may be liable** to you for the security deposit unless notice of the transfer is given to the tenant.
6. If the landlord or the landlord's agent fails to comply with any of the above conditions, the **landlord may be liable for twice the amount** of the security deposit, plus interest and attorney fees. You should consult a lawyer before initiating a lawsuit.

Chapter 13

The Housing Choice Voucher Program

Background

The Housing Choice Voucher (HCV) Program (formerly known as Section 8) is a rental assistance program funded by the federal government. To qualify for a voucher, renters must meet strict income standards.

The HCV Program gives renters the resources they need to rent in the private market (the private market includes all housing that is not considered ‘public housing’). HCV renters may use their voucher in any neighborhood, city or state in the country.

HCV renters pay between 30 and 40 percent of their total income for rent and utilities, such as gas or electricity. The local housing agency pays the landlord the difference between the rental unit’s *actual rent* and what the tenant pays to the landlord and / or utility companies.

In Chicago CHAC is the agency that manages the HCV Program and works with tenants to find apartments, talk to landlords, and learn to use the voucher correctly. CHAC is not an acronym. CHAC is a private company hired by the Chicago Housing Authority to manage the HCV Program.

Steps for using a Housing Choice Voucher

1. Renter applies for a Housing Choice Voucher through a local agency or representative of the U.S. Department of Housing and Urban Development (HUD). In Chicago, renters apply to CHAC. There is generally a waiting list. Public housing residents apply to CHAC when directed to do so by the Chicago Housing Authority.
2. HCV renters must attend at least one interview and workshop at CHAC before receiving the voucher. The voucher will list the number of bedrooms for which the family is eligible, depending on family size.
3. Like all prospective renters, HCV renters need to look for an apartment or house to rent. HCV renters need to calculate how much they can afford to spend for rent, based on the amount of their voucher, identify neighborhoods where they would like to live, and should consider ‘Opportunity Neighborhoods’ and ‘Exception Rent Areas.’ Opportunity Neighborhoods are areas that have lower poverty rates (where less than one-fourth of people live below the poverty line, \$16,700 for a family of four). CHAC offers special incentives, such as interest-free security deposit loans, to HCV renters who choose to move to Opportunity Neighborhoods.

As of October 2001, six areas in Chicago were designated by HUD as Exception Rent Areas. Due to a low concentration of voucher tenants, this program will pay a higher monthly rent in those areas. Subject to annual review, the areas designated in October 2001 are Edison Park,

Forest Glen, Lincoln Park, Loop, Near North and O’Hare. Contact CHAC for current rent standards.

4. After the voucher holder finds a rental unit, CHAC sends a Housing Quality Inspector to determine if the rental unit meets government Housing Quality Standards (HQS). In addition to the Landlord Responsibilities listed in Chapter 4, the unit must have:
 - One carbon monoxide detector within 40 feet of all bedrooms and at the heating source;
 - One smoke detector for each living level with a habitable room or enclosed heating unit;
 - Handrails for flights of four or more stairs within a unit or that lead to a common area; and
 - Electrical fixtures, such as outlets or switches that work properly.
5. If the Housing Quality Inspector visits the rental unit and it passes inspection, CHAC and the landlord sign the Housing Assistance Payment (HAP) Contract.

The HAP Contract is a written agreement between CHAC and the landlord that guarantees the landlord will receive rent money directly from CHAC and from the HCV Program renter every month for the length of the lease.

If the house or apartment does not pass CHAC’s inspection, the landlord can make needed repairs and apply for re-inspection. HCV renters cannot sign a lease or move into a rental unit unless the unit passes inspection and CHAC has signed the HAP Contract.

Utilities and Moving Costs

CHAC decides if the HCV renter pays for utilities. CHAC and / or the landlord may include utilities in the rent. In most cases, HCV renters are responsible for their own security deposit money and moving costs.

In addition to responsibilities listed in the Chicago Residential Landlord and Tenant Ordinance, HCV renters must complete the following items, or they will lose their voucher:

- Give CHAC all requested information and paperwork. HCV renters are notified each year approximately three or four months before their annual re-certification date.
- HCV renters must live in the CHAC-approved rental unit for one year. They cannot terminate their lease except in the case of a medical emergency.
- HCV renters must allow CHAC Housing Quality Inspectors to inspect the rental unit when given prior notification.
- HCV renters must notify the owner and CHAC in writing at least 30 days before moving out of the unit.

- HCV renters must use the rental unit as their principal residence.
- HCV Program renters cannot give or transfer a lease to someone else. HCV Program renters cannot ‘sublet’ their rental unit.

HCV renters will lose the Housing Choice Voucher and may be evicted if:

- The renter or their family commits fraud in connection with the HCV Program.
- The renter or their family is involved in any drug-related or violent criminal activity or illegally possess weapons.
- The renter or their family threaten, abuse, or are violent toward any CHAC personnel.
- The renter or their family or guests damage the unit or building’s common areas in any way that is more than normal wear and tear.
- The renter or their family commits serious or repeated violations of the lease.
- The renter does not pay utility bills in their name.
- The renter does not provide and maintain any appliances the owner is not required to provide under the lease.
- The renter receives assistance from any other rental assistance program.
- The renter or their family is absent from the unit for more than 90 days, unless someone in the family has a medical need.
- The renter or their family moves from the unit without giving written notice.
- The renter does not fix any life-threatening violation of Housing Quality Standards.

Like all rental tenants, the landlord can evict HCV renters. However, CHAC works with HCV renters to resolve conflicts and problems with their landlord. In order to evict HCV renters, the landlord must void the HAP Contract agreement with CHAC.

To learn more about the rights and responsibilities of HCV renters, please contact:

CHAC
1000 S. Wabash
Chicago, IL 60605
(312) 986-9400 phoneH

A Renter's Reference List

Legal Government Agencies

Chicago Dept. of Housing..312-747-9000
Chicago Dept. of
Inspectional Services.....311
Chicago Commission
on Human Relations.....312-744-4111
Chicago Commission
on Human Relations.....312-744-4111
Chicago Dept. of Health....312-747-9884
Cook County Sheriff..... 312-603-3356
Dept. of Human Services...312-744-8111
CHAC.....312-986-9400
CHA.....312-742-8500
HUD.....312-353-5682

Latino Housing Organizations

Latin United Community
Housing Association.....773-276-5338
Latinos United..... 312-782-7500

Legal Assistance

Cabrini Green Legal Aid....312-266-1345
Chicago Bar Association
Attorney Referral Service....312-554-2001
Illinois Tenant Union..... 773-558-3469
Kent Law School
Help Desk.....312-603-3579
Lawyers' Committee
for Better Housing.....312-347-7600
Lawyers' Committee
for Civil Rights.....312-630-9744
Equip for Equality.....312-341-0022
Center for Disability
and Elder Law.....312-908-4463
Leadership Council for Open
Metropolitan Communities.312-341-5678
Legal Assistance
Foundation.....312-341-1070
Uptown Peoples
Law Center.....773-769-1411
Chicago Volunteer
Legal Services.....312-332-1624

Special Services

Access Living.....312-226-5900

Home Energy
Assistance Program....312-456-4111
Peoples Gas.....312-431-7299
Citizens Utility Board..312-263-4202

Tenant Organizations

Edgewater Community
Council.....773-334-5609
Kenwood Oakland
Community Org.....773-548-7500
Logan Square
Neighborhood Assc.....773-384-4371
N.W. Austin Council...773-379-7822
Rogers Park Community
Council.....773-338-7722
South Austin
Coalition.....773-378-2400
West Englewood Community
and Neighbors.....773-288-3000
Rogers Park Community
Action Network.....773-973-7088
Near Northwest Neighborhood
Network.....773-409-0303
Organization of the
Northeast (ONE).....773-769-3232
Albany Park
Neighborhood Council..773-583-1387

Hotlines

MTO's Tenants'
Rights Hotline.....773-292-
4988
CARPLS Legal Advice
and Referral Hotline.....312-738-
9200
Rents Right
742-RENT (7368)
City of Chicago non-emergency
information and referral
line.....311