

LANDLORD-TENANT LAW IN HAWAII

Hawaii landlord-tenant law is set out in the Hawaii Revised Statutes in the Residential Landlord-Tenant Code. The “Hawaii Landlord-Tenant Handbook,” which explains the Residential Code, may be found at the State of Hawaii Department of Commerce and Consumer Affairs’ website at www.state.hi.us/dcca.

Residential leases in Hawaii may be fixed-term or month-to-month. Fixed-term leases automatically expire, while month-to-month are terminated upon written notice by the landlord or the tenant. A landlord must give the tenant 45 days notice, while the tenant must give 28 days notice. Tenants who remain on the premises after the rental agreement ends, without the landlord’s consent, are called *holdover* tenants and may be charged double rent. If the landlord does not file for *summary possession* (i.e., eviction) within 60 days of the holdover, or does not enter into a new rental agreement, a month-to-month lease is deemed created utilizing the terms of the prior agreement.

Tenants should always demand and be present at move-in and move-out inspections. Tenants can protect themselves by noting in writing all problems with the unit, including lack of cleanliness, keeping a copy of the written inventory, and taking pictures of the unit. Keeping a copy of the move-out inspection is also helpful along with taking pictures of the unit. Frequent disputes between the landlord and tenant stem from security deposits that are retained in part or in whole over alleged repairs and cleaning expenses. Without a move-out inspection, there is a rebuttable presumption that the tenant left the unit in the same condition it was in at the start of the lease.

Before a landlord may terminate an agreement because of back rent owing, the landlord must give written notice allowing the tenant five business days to pay the balance and any late charges. The landlord must give a tenant written notice of 10 days to correct a violation of the rental agreement, including failure to maintain the premises. If the tenant does not correct the problem within the time specified, the landlord may end the agreement and sue for summary possession, or correct the problem and bill the tenant for it. If a tenant’s behavior may cause irreparable damage to person or property, the landlord need not give the tenant any time for correction.

If the landlord has refused or neglected to do necessary repairs, the tenant may not withhold rent except in certain circumstances. The tenant must first give written notice allowing the landlord 12 business days to start the repairs. If the landlord fails to do so, the tenant may pay for the repairs and deduct up to \$500 from the following month’s rent for the actual cost (which means providing the landlord with receipts).

Security deposits. The total amount may not be in excess of one month’s rent. The tenant may not use the deposit as payment for the last month’s rent or any back rent unless the landlord agrees. The landlord may retain all or any portion of the deposit for failure to pay rent, to return the keys, to put the unit in as clean a condition as it was at the start (except for normal wear and tear), or to compensate for damages by a tenant who wrongfully quits the unit. The landlord must notify the tenant in writing of the reasons for retention, including copies of receipts for cleaning and/or repairs. The notice, and any portion of the security deposit remaining must be given to the tenant within 14 days after the termination of the rental agreement. If notice is not accomplished within 14 days, all of the security deposit shall be returned to the tenant.

Actions for summary possession and money damages are filed in regular claims, District Court of the First Circuit, located in downtown Honolulu at 1111 Alakea Street. Actions for the return of a security deposit are filed in small claims court. In this latter type of action, lawyers are not allowed to represent either party.

Sarah Courageous
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