



LANDLORD – TENANT LAW IN NORTH DAKOTA

This handout is intended to provide general information about certain rights and responsibilities between landlords and tenants. It is NOT intended to be a substitute for professional legal advice.

For additional detailed discussions about landlord and tenant laws in North Dakota, see:

North Dakota Legal Services brochure #693 *Landlord – Tenant Law in North Dakota*, available at: http://www.legalassist.org/?id=86&form_data_id=38

North Dakota Office of Attorney General publication *Tenant Rights*, at: <https://attorneygeneral.nd.gov/sites/ag/files/documents/TenantRights.pdf>

Before a Lease is signed:

A landlord may require a prospective tenant to complete an application and to pay an application processing fee. The tenant should verify if this processing fee is refundable. The processing fee is usually a separate fee from a security deposit.

Before signing a Lease or rental agreement, it's important that the tenant inspect the property and make a listing to be added to the Lease that sets out existing damages before the tenant and landlord sign the Lease. If this is not done, the tenant may be held responsible for those damages that existed prior to the start of the Lease.

Security Deposit:

The terms "security deposit" and "damage deposit" mean the same thing under North Dakota law. State laws mostly use the term "security deposit." The tenant can be required to pay a security deposit of up to one month's rent, plus an additional deposit if the tenant has a pet, not to exceed the greater of \$2,500 or two months' rent. A pet security deposit does not apply to a service animal required by a tenant with a disability as a reasonable accommodation under fair housing laws. The landlord can, however, require supporting medical documentation for a service animal. A tenant who has a felony conviction can be required to pay up to two months' rent as a security deposit.

The security deposit must be deposited by the landlord into an interest-bearing account. The accrued interest is for the benefit of the tenant, except if the period of occupancy was less than nine months, then the landlord is not required to pay the accrued interest to the tenant. Upon the termination of the Lease, the landlord may retain a sum from the security deposit for damages caused by the tenant, tenant's pet or tenant's guests; unpaid rent; and cost of cleaning and repairs, reasonable wear and tear excepted. An itemized listing of sums deducted from the security deposit and the remaining balance must be given to the tenant within 30 days after the termination of the Lease.

The security deposit will stay with the property until the end of the Lease. This is true even though there is more than one renter of the property and some of the renters have moved out early.

Rent and Late Fees:

Tenants must pay the rent on time. Due dates and amounts should be set out in the Lease. Failure to timely pay the rent is a basis for eviction. A landlord's failure to timely make repairs is not a legal defense to the non-payment of rent. If more than one person is renting the property, each person is responsible for the entire rent, unless the Lease states otherwise.

A late fee cannot be charged for missing the due date to pay the rent *except* if the Lease has a provision for a late fee that specifies how much the late fee will be and on what date it will become effective.

Landlord Responsibilities:

The landlord must keep the premises compliant with building and housing codes relating to health and safety; make or arrange for repairs as agreed upon in the Lease, or that are necessary to keep premises in a fit and habitable condition; keep common areas in a safe condition; maintain in good working order electrical, plumbing, hot water supply, sanitary, heating, ventilating, air-conditioning systems, elevators and other facilities required to be provided by landlord; provide garbage containers and garbage removal; and install smoke detectors.

A landlord may enter the property at any time if there is an emergency, or at reasonable times to repair, inspect or show the property. A landlord may not lock the tenant out, cut off the utilities, or confiscate tenant's belongings.

Tenant Responsibilities:

Tenant must pay the rent in full and on time, use the building and facilities appropriately, keep the unit clean and safe, timely make repairs as agreed upon in the Lease, remove garbage regularly, and make sure that they and their guests do not disturb other tenants.

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Property Abandoned by Tenant:

Tenant's property with an estimated value of not more than \$2,500 which has been left on the premises of the leased property for 28 or more days after the landlord received actual notice that the tenant has vacated the premises or it reasonably appears that tenant has left the property becomes the property of the landlord to dispose of in any manner the landlord chooses, without any legal process. If there are expenses for storing or moving this property which exceed the proceeds from the sale of that property, the landlord can deduct those expenses from the security deposit.

Discrimination:

A landlord may not discriminate based on race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance in the:

- sale or rental or advertising of dwellings
- terms, conditions or privileges of a sale or rental of a dwelling
- provision of services or facilities in connection with the sale or rental of a dwelling

A landlord may not, with respect to a person with disabilities:

Refuse to let the person make reasonable modifications to a residential property or common areas at the person's expense or refuse to make reasonable accommodations in rules, policies, practices or services if necessary, for the person to use the housing.

A landlord may condition the permission for a person with disabilities to make reasonable modifications to the property upon agreement by that person to restore property to pre-modification condition when the Lease is ended.

Eviction:

A tenant may be evicted at any time – even in winter – for non-payment of rent, violating the Lease, disturbing the peaceful enjoyment by others of the premises or adjacent premises, or for engaging in or permitting illegal activities on the premises.

In order to evict a tenant, in most cases, the landlord must first serve a "Notice of Intent to Evict" upon the tenant at least three days before starting a legal eviction action. This notice has sometimes been called a "Notice to Quit" or "Notice to Vacate." If the tenant cannot be found, this Notice can be mailed to the tenant at last-known address or posted on the door of the residential unit. If the tenant continues to remain in or on the premises three days after the service of this Notice, then the landlord may begin a legal eviction action by serving a Summons and a Complaint. The Summons must specify the date and

time for a court hearing that will be between three and fifteen days later. If the judge decides in favor of the eviction, the tenant will be evicted on the same day as the court hearing unless the tenant can show hardship and that the eviction is not due to a disturbance of the peace, in which case the judge can give the tenant up to five days to move out.

Only the sheriff's office can legally remove a tenant's belongings from the property during the process of eviction; the landlord cannot.

Where to get help:

Contact Legal Services of North Dakota, see contact information on website www.legalassist.org or if age 59 or less, call 1-800-734-5263 and if 60 years and older, call 1-866-621-9886

See Small Claims court forms, available from through Self Help Center of the North Dakota Supreme Court, see www.ndcourt.gov/ndlshc/ -then tab "Small Claims"

File a housing discrimination claim with the North Dakota Department of Labor, see <https://www.nd.gov/labor/human-rights/housing>

Contact High Plains Fair Housing, see <http://www.highplainsfhc.org>

See also this website for discussion about eviction and related forms that may be used by the landlord:

<http://www.ndcourts.gov/ndlshc/forms/pdf/INSTRUCTIONS%20FOR%20EVICTION.pdf>

FOR MORE INFORMATION, CONTACT:

ND PROTECTION & ADVOCACY PROJECT

400 E. BROADWAY, SUITE 409

BISMARCK, ND 58501

1-800-472-2670

(701) 328-2950

www.ndpanda.org

panda_intake@nd.gov

If you need this handout in an alternative format,
please contact the Protection & Advocacy Project.



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