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QUESTIONNAIRE FOR YOU AND YOUR LANDLORD

Landlord-tenant disputes occur frequently in the rental process. Knowing your rights and responsibilities as a tenant can help protect your interests and can help resolve and avoid disputes.

This book provides tenants with a general understanding of the tenant's duties and the landlord's responsibilities under Missouri law. This book also focuses on the special problems facing today's tenants and suggests possible solution to these problems.

It is not intended as a substitute for personal legal advice. If problems arise with a landlord which cannot be resolved by negotiation, consult an attorney if at all possible. Also, remember that the law changes periodically.

This book was researched and written under a grant from Citicorp by Shari Lewis and Rebecca Spees, then law students at St. Louis University, and by Rodney H. Powell, an attorney at Legal Services of Eastern Missouri. Special thanks are also in order to attorneys Gail Klearman, Kayla Vaughan, Alexa Shabecoff and Nina Balsam who took time from their busy schedules to review early drafts and to provide many suggestions to make this book more useful for tenants.

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1. THE TENANT'S DUTIES

Both the landlord and tenant have certain duties. The laws of Missouri and any additional agreements in your rental agreement identify these duties.

A. The Tenant's Duties Under Missouri Law

As a tenant, you must:

- Pay all of your rent when the rent becomes due.
- Get rid of all trash or other waste which may attract rodents or bugs.
- Follow rules set forth by special codes in your municipality. (To find out whether or not such rules exist in your town, call your city hall).
- Give your landlord appropriate notice before you leave and make arrangements to turn in the keys.
- Not purposely damage the landlord's property.

B. The Tenant's Duties Under the Rental Agreement

There are different types of rental agreements in Missouri. Most are "month to month" which means that they can be terminated by either the landlord or the tenant at any time with only thirty days notice. The second most common is a lease for a set period of time- usually one year. Other than for violations of the lease, neither the tenant nor landlord can get out of this type of agreement until the period of time stated in the agreement has expired.

There may be additional duties stated in your rental agreement which are separate from your duties under Missouri law. It may impose such duties as not allowing pets. It may also prohibit you from letting additional people live with you or sublet your apartment or house to someone without your landlords approval

Before signing, read the lease carefully. If you have any problems with any parts of the lease, talk about them with the landlord to see if changes can be made. The key to a good relationship with your landlord or management company is good communication.

If you fail to perform your duties under the law or the lease, the landlord may use your failure to perform a duty as a reason to evict you. By making yourself aware of these duties and performing them, you can prevent possible disputes.

II. SPECIAL PROBLEMS FACING TODAY'S TENANTS

A. Homelessness

If you are about to be evicted and have no place to go, you may need to go to a shelter. The St. Louis area has shelters available to homeless individuals which provide a temporary place to stay until you can find housing. The range of services available and length of time you can stay varies depending on the individual shelter. For more information contact the Housing Resource Center:

City Shelter Hotline - 771-2273
County Shelter Hotline - 802-5444

B. Discrimination

Under Missouri law, a landlord cannot discriminate against a tenant because of race, sex, disability, national origin or religion. The same applies with federal law, except that discrimination against persons with children is also unlawful.

1. Racial or Ethnic Discrimination

Many different circumstances exist which suggest a landlord's discriminatory intent against a tenant

because of the tenants race, ethnicity, or religion. Proving racial, ethnic, and religious discrimination is difficult. The following examples may help.

You are financially or otherwise eligible for housing. The landlord denies you housing and:

- The landlord tells you that the dwelling was not available.
- The landlord initiates a discussion concerning your race, ethnicity, or religion.
- The landlord suggests that the neighborhood would not welcome you because of your race, ethnicity, or religion.

Be careful. Do not assume that one comment means the landlord has discriminated against you. Consider the race, ethnicity and religion of the other tenants and neighbors. The landlord's comments to you and the nature of the surrounding community may make discrimination a more believable possibility. These are just a few examples. There may be other circumstances which lead you to believe the landlord has discriminated against you.

2. Discrimination Based on Disability

Discrimination based on disability may occur when a landlord denies housing to a possible tenant or evicts a tenant because of the tenant's disability. A disability can be either a physical or mental condition. If a tenant performs all duties necessary to fulfill the lease requirements, a land lord cannot evict a tenant simply because of a disability. As long as the tenant's disability does not interfere with the tenant's ability to pay rent and keep a clean home, both

disabled and non-disabled tenants have the legal right to live in a dwelling. Even if a tenant cannot perform one of the duties of the lease, a landlord may still be required to accommodate the tenant if such an accommodation is reasonable. For example, if you must use a wheelchair, and you cannot get into the apartment you want because there are two steps, the landlord might be required to allow you to put in a ramp, or may even be required to put it in him/herself. Amendments to the Fair Housing Act also require that buildings constructed 30 months after passage of the amendments be accessible to persons with disabilities.

3. Sex discrimination

Sex discrimination involves unequal treatment of males and females by the landlord simply because of the tenant's sex. An example is where a land-lord refuses to rent to a single mother with one child but will rent to a single father.

Sexual harassment is another form of sex discrimination. Sexual harassment occurs when the landlord withholds benefits and expects sexual favors in order to receive those benefits. For example, if your landlord refuses to fix your furnace until you have sex with him, you are being sexually harassed.

Be cautious about letting your landlord into your home. Unless your lease specifically states that your landlord may enter your home without your permission, then you have exclusive possession of your home. No one including your landlord may enter without your permission. Do not be afraid to say no. Your landlord cannot legally evict you for refusing to have sex with him, but he may try, so be prepared.

Proving sexual harassment is often difficult because the landlord approaches victims in private. Talk to other tenants. You may find that you are not alone. If your landlord does this to you, he probably does the same thing to other tenants.

Also consider whether your landlord made suggestive gestures or comments in public. If so, someone may have witnessed the incident. Ask any witnesses if they would be willing to write a letter or testify on your behalf.

4. Familial Status Discrimination

The 1988 Amendments to the Fair Housing Act make it unlawful for landlord's in private housing to discriminate against tenants or prospective tenants because they have children in the dwelling. The kind of activities that are prohibited under these amendments include refusing to rent to someone because they have children, or charging someone more for rent because they have children.

- This prohibition only applies to dwellings with four or more units.
- Excludes from coverage any development in which all residents are at least 62 years of age, and any complex with special services for senior citizens with at least 60 percent of its units occupied by someone at least 55 years old.
-

Remedies if Discrimination Occurs

There are several ways you can get an order for the discrimination to stop or seek reimbursement for the damages you have suffered. First you can go to a governmental agency and ask the agency to investigate the complaint. If you go to the Department of Housing and Urban Development (HUD), the Secretary will investigate your complaint. If the Secretary finds there has been discrimination, you can elect to have the Secretary refer the case to an administrative law judge or the

court to determine if discrimination occurred and how you should be compensated.

Agencies to Contact

If you feel you have been discriminated against contact one of the following agencies.

St. Louis City: Civil Rights Enforcement Agency
139 Olive St., Suite 600
St. Louis, Missouri 63101
314-622-3301

State Office: Missouri Commission on Human Rights
505 Washington Ave.
St. Louis, Missouri 63101
314-340-7590

Federal Office: U.S. Dept. of Housing and Urban Development
1222 Spruce, 3rd floor
St. Louis, Missouri 63103
314-539-6583

Metropolitan St. Louis Equal Housing Opportunity
1027 S. Vandeventer, 4th floor
St. Louis, Missouri 63110
314-534-5800

C. Maintaining a Safe and Suitable Place to Live

1. Informing your landlord of problems

A landlord has a duty to maintain minimal standard conditions within dwellings owned by

the landlord. Area housing codes normally give the minimum standards a landlord must maintain. Standards differ among communities. To find out the standards in your community, call your city hall. Normally, the landlord must maintain bare living requirements such as keeping heating units and plumbing in working condition. Minimal standards do not require a perfect dwelling.

If hazardous or unsanitary conditions exist in your home through no fault of your own, or if the landlord fails to make repairs in the agreed upon lease, notify your landlord in the following manner:

- Contact your landlord by phone to discuss the problem. Politely ask that the problem be corrected.
- After you finish talking, write the landlord a letter. This letter should include the date, time, and any agreements made during the phone conversation.

Sample Letter

Dear {Landlord or ManagementCompany}:

This letter is in reference to our phone conversation on ____ (date). At that time I told you about describe the problem in detail. This problem is at my (apartment) or (house) located at (address). My understanding of our conversation is as follows: You agree to fix the problem by (date) or I agree to fix the problem and reduce my rent by (amount) as a payment for my labor. If there is any problem with this, please contact me.

Thank you,

Tenant.

Important!

- **Before mailing the letter, make a copy and store it in a safe place.**
- **Mail the letter**
- **Wait. You must give your landlord a reasonable amount of time to respond. (10 days is considered reasonable**
- **If the landlord does not respond after a reasonable amount of time, and the problem creates a fire hazard or a serious threat to your life, health, or safety, call the local health authority.**
- **If your landlord does not respond after a reasonable amount of time, you should also send him a copy of your original letter. However this time you should take it to the Post Office and have it certified. You will receive a receipt which proves that you mailed the letter, and later, a receipt that proves your landlord got the letter.**
- **Keep copies of all the letters you send to your landlord as well as any letters your landlord sends to you. Take pictures of the hazardous or unsanitary conditions and keep these pictures along with the letters in a safe place.**
- **If you offer to make repairs, and your landlord agrees to pay you or deduct rent in exchange for your work, you should have your landlord sign an agreement.**

Sample Agreement of Work in Exchange for Rent

1. This agreement is between {tenant} and {landlord or management company} concerning the following {address}.
2. It is agreed by the parties to this agreement that the following repairs need to be made at

- {address}: {set forth in detail the repairs which need to be made}**
- 3. {Tenant} agrees to make the repairs set forth in paragraph 2 above and {landlord or management company} agrees that {Tenant's} rent for the month shall be reduced to {normal rent – amount allowed for repairs = rent due.}**
 - 4. All other provisions of the rental agreement between {tenant} and {landlord} shall remain unchanged.**
 - 5. {Tenant} agrees to resume paying the normal rent of \$ {amount} on {date}**
 - 6. Signed and agreed to this ___ day of _____, 200. {Tenant} {Landlord or Management Company}**

2. Withholding Your Rent

If your landlord does not correct housing code violations even after notification of the problems, and has had a reasonable time to correct the problems, you may choose to withhold your rent. A tenant withholding rent does not pay all or part of the rent to the landlord, but puts the rent money in a special savings account. You will still be paying rent, but not directly to the landlord. However, withholding your rent creates the possibility of eviction and should only be used as a last resort. You should try to talk with a lawyer before withholding your rent.

You should only withhold your rent after notifying your landlord of the problems(s) which are causing you to withhold rent. You must make your landlord aware of the problem by either talking with or writing to the landlord. Be sure to save copies of your letters. Then, you must wait a reasonable amount of time for your landlord to correct the problem. (For more information, see section on Warranty of Habitability). Thirty (30) days is a reasonable amount of time to correct the problem. However, a lesser time may be reasonable, if the problem is severe. For example, if your furnace breaks when the temperature is

below zero, a reasonable time may be only a couple of days.

You must also decide whether the problems with your home create a threat to your health or safety or if the problems are just an inconvenience. You must have a very good reason for withholding your rent; minor problems such as some peeling paint or a leaky faucet are not good enough. If you have a question about whether a certain problem creates a health or safety hazard, you may want to call your local health department.

Finally, if you do decide to withhold part or all of your rent, send your landlord a letter by certified mail explaining your decision. See the sample letter below.

Dear _____

I have spoken with you over the telephone several times in the past month. During our first conversation on {date}, I informed you {state the problem here}. You agreed to fix these problems by {date}. On {date} the problems had still not been corrected. I called you once again and you assured me that they would be fixed very soon. As of today, this problem still has not been corrected. These problems are creating major health hazards to both my family and myself. Furthermore, I have also reported these problems to the health department. For these reasons, I believe the value of my apartment has been reduced by \${amount} per month. I will reduce my rent payment to you until the repairs have been made. The rent money will be placed in a special savings account and will be readily available once these problems are fixed. I would sincerely appreciate your immediate cooperation in this matter.

Thank you.

Next, put your rent money in a special savings account called an “escrow” account. If the landlord does try to

evict you for failing to pay rent, the court will look more favorably upon you if you have the rent money saved. Also, if you have carefully followed the above steps, including saving letters and taking pictures, the court may excuse you from paying rent or may lower the amount of rent you need to pay.

3. Repair and Deduct

If your landlord does not correct housing code violations another option in certain circumstances is to repair the problem yourself and deduct it from the rent. Missouri law now provides that when a condition in a unit is a violation of a local building code and the cost to correct the condition is less than \$300.00 or one-half (1/2) of the periodic rent (whichever is greater) a tenant may repair the defect and deduct the cost of the repair from the rent.

To qualify to make a repair and take a deduction the tenant must:

- 1) notify the landlord of the tenant's intention to correct at the landlord's expense
- 2) the landlord must fail to correct the condition within fourteen (14) days after being notified or as promptly as required in case of an emergency
- 3) if the landlord provides a statement within the notice period disputing the need for the repair, the tenant may not deduct the cost without securing, before doing the repair, written certification from the government body that the condition violates a building code
- 4) tenant must submit an itemized statement before doing repairs.
- 5) REMEMBER:
 - a) the tenant cannot repair at the landlord's expense if the defective condition was caused by the tenant or a family member or guest
 - b) the tenant cannot deduct more than the amount of one month's rent in a twelve month period.

4. Leaving Before Your Lease Ends

If your rental agreement is a lease for a period of time and if the living conditions are bad enough, you might consider leaving your home before your lease ends. However, you must first notify your landlord of the problems, and allow a

reasonable time to make repairs. If you leave before the lease ends, your landlord can sue you for breaking the lease agreement. Also, tenants rarely leave before the end of their lease, because of the difficulty of finding a new place to live.

Leaving before your lease ends creates risks and should only be used as a last resort. Before deciding to leave, try to talk with a lawyer about other alternatives.

If you decide to leave, you must meet certain requirements before a court will excuse you from your lease.

- a. First, the conditions must be so hazardous as to make the home an unsuitable place in which to live.
- b. Second, the landlord, not you, must have created these hazardous conditions. Proving who caused the problem can be difficult. For example, does the plumbing not work because your landlord hasn't fixed it or because you misused it? You cannot just blame your problems on your landlord; you must prove the landlord is to blame.
- c. Finally, if the landlord still does not correct the problem after notification and a reasonable amount of time to make repairs, you must leave within a reasonable time. If you continue to stay in your home too long after the problems begin, you won't be able to use the problems as an excuse for leaving.

Also, be sure to send your landlord a letter by certified mail explaining that you intend to leave and your reasons why you are leaving.

5. Ending a Month-to-Month Rental Agreement

It is easier to leave your dwelling if you have a month-to-month rental agreement than if you have a lease. Month-to-month agreements mean that you are really entering into a new agreement with your landlord every time you pay your rent—usually once a month. All you need to do to end this type of rental agreement is to give your landlord written notice at least one month before your next rent is due. Likewise, all your landlord needs to do to end the rental agreement is to give you a written one full month notification from rent day to rent day that you are to leave by the time your next rent payment is due. The following letter is an example of a letter you can send to your landlord to end a month-to-month rental agreement. (Assume the rent is due the 1st of every month.)

October 31, 2003

Dear (Landlord's name)

I am writing to inform you I will be terminating my tenancy on November 30, 2003.
Very truly yours,

Please make sure that you keep a copy of the letter for your records.

6. Abandonment

If you leave your apartment before your lease ends and you don't give your landlord notice you are leaving or if you are gone from your apartment for a long period of time and don't let your landlord know you will be gone but intend to return, the landlord may assume you have abandoned your apartment,

and under certain circumstances, the landlord may remove and dispose of any property you have left on the premises.

The landlord is permitted to determine the apartment is abandoned if:

- the landlord has a reasonable belief the tenant has vacated the apartment and does not intend to return (ie. mail is piling up, no one has seen the tenant for some time, etc.)
- the rent is due and has been unpaid for thirty days
- the landlord posts written notice on the premises and mails by first class mail and certified, a notice to the last known address of the tenant of the landlord's belief that the apartment is abandoned,
- the tenant fails to either pay rent or respond in writing within ten days of the notice that she/he doesn't intend to abandon the apartment.

If you have to be gone from your apartment for a period of time make sure your rent is being paid and you let your landlord know of your intent to return.

7. Getting Your Security Deposit Back When Your Rental Agreement Ends

Once a landlord and a tenant agree to a rental contract, the landlord usually requires the tenant to pay a security deposit. The landlord often holds this money to pay for any damages to the rental unit which occur while the tenant lives in the dwelling.

The amount of this deposit cannot legally be more than two month's rent. For example, if you pay \$200 a month for rent, your deposit should not be more than \$400. Also, remember to keep the receipt for

the deposit and a copy of the rental agreement (if there is one). Before renting from a landlord, you should inspect the apartment or house you want to rent. When you inspect it, make a list of any problems and damage and take pictures of the damage if possible. Give the landlord a copy of your list. **The landlord cannot legally keep your security deposit when you move out to pay for damage you did not cause. The list and pictures will help show that you did not cause the damage. Also, the landlord cannot keep your security deposit to cover “ordinary normal wear and tear.” “Ordinary normal wear and tear” means those repairs which need to be made just because someone has lived in a dwelling. This may mean, but not necessarily, repainting walls and ceilings, replacing carpet if it has been on the floor for many years, shampooing the carpet, or replacing grout and tiles in the bathroom.** “Ordinary wear and tear” repairs are not repainting walls which need to be repaired **only** because the landlord found it necessary to patch holes which you put in the wall, or replacing the carpet because your dog chewed up portions of it. However, you should not have to pay for repairs if your landlord used shoddy materials such as cheap non-stain resistant carpet.

Once your rental agreement ends, your landlord has thirty (30) days to return your security deposit. During that time, the landlord should inspect your apartment and determine the cost of repairing any damage. The landlord can bill you for costs which exceed your security deposit. You should be present when your landlord inspects your apartment and determines the cost of repairs. You may want to take photos of your unit once it is clean and empty as proof of the condition in which you left the unit.

If your landlord keeps any part of your deposit, you should receive a listing explaining the damages

and the cost of repairs. Your landlord may also keep any portions of the security deposit to cover any rent payment which you have not made. Your landlord must return any money not used. Make sure to leave a forwarding address. The landlord has an excuse for not refunding your deposit if you don't leave a forwarding address.

If your landlord does not return your security deposit or give you a list explaining any damages and the costs for repairs, notify the landlord that thirty days have passed and he/she has an obligation to return your deposit. If you still do not hear from your landlord, contact a lawyer. If you cannot get a lawyer, you may want to consider suing your landlord yourself in Small Claims Court. If your landlord does not return your deposit or send you a notice explaining why all or part of the deposit is being withheld within thirty days, you can sue for double the amount of the security deposit.

8. Changing Landlords

A change in ownership of rental property can create problems for tenants. As tenants, you should always know who your landlord is and never pay your rent to a stranger. The following examples show some common problems tenants face and suggest ways to deal with a change in landlord.

Example 1 The Fake Landlord

Someone appears on your doorstep, introduces himself as your new landlord and requests that you pay him \$200.00 in rent. You pay this person and later find out that he is not your new landlord. You just lost \$200.00.

Solution 1

Do not pay your rent money to anyone new until you are certain that the new person really is your new landlord or someone authorized by the landlord to collect rent, such as a manager. If you pay the wrong person, you still have to pay your real landlord. Ask anyone new to show you a copy of the deed to the property. A deed describes the property and states the owner's name. You do not have to pay this new person if you are not shown the deed. However, if this person actually is the new owner and you refuse to pay, then that person would then have the right to end your lease, and try to evict you. You may also find out the true owner's name by going to city hall in your locale.

Example 2 New Landlords and Rent Increases Under a Lease

Your new landlord raises your rent to \$300.00 a month. Your lease agreement for \$200.00 a month does not end for another six months. You offer to pay the \$200.00 a month your lease agreement says you must pay. Your landlord refuses to accept the \$200.00.

Solution 2

Remind your new landlord that you do not have to pay more money than you agreed to in your lease. Since you agreed to pay \$200.00 a month in your lease, you are only responsible for paying \$200.00 a month until your lease ends. The new landlord must go by the lease which was in effect at the time the property was purchased. If you do not pay rent to your new landlord, s/he may evict you but cannot recover rent that has accrued since s/he purchased the property.

To avoid problems, send the landlord a check or money order for \$200.00 and a certified letter explaining that you only agreed to pay \$200.00 a month. Keep a copy of both the letter and the check or money order in case the landlord tries to evict you.

9. Utility Shut-Offs

Your landlord cannot legally shut off your utilities (gas, electricity, or water) to force you out of your apartment. If one or more of your utilities does not work, call the utility company and find out why. The utility company may have shut off the utility to make repairs or because of past due bills. However, if the landlord shuts off the utilities on purpose and no repairs are being made, call your landlord and report the shut-off. If your landlord appears to have shut off your utilities to force you out of your apartment, call your area health department. Especially if you have children, or sick or elderly people living with you, you may want to call the police, as the landlord's actions are against the law. If you cannot get help from the health department or the police, contact a lawyer immediately. It may be necessary to take court action.

10. Eviction

Eviction occurs when your landlord kicks you out of your apartment. You can probably expect an eviction notice if:

- 1) you have not paid your rent and your landlord demands payment; or
- 2) you have not performed one of your duties stated in your lease; or
- 3) you have violated a lease provision; or
- 4) your landlord will not renew your lease; or

5) you receive a notice which specifically states you have so many days to move out.

If you think your landlord wants you evicted, talk to your landlord as soon as possible. To prevent eviction, you must be willing to talk and negotiate with your landlord.

Unless the landlord can prove you abandoned the unit, the landlord cannot remove you and your belongings from the unit without first suing you in court and obtaining a court judgment against you.

III. LEARNING TO NEGOTIATE WITH YOUR LANDLORD

Negotiation can help solve a landlord-tenant dispute inexpensively. When a landlord and tenant negotiate, they talk about their specific problem and try to find a solution to which they both can agree.

A. Discussing The Problem

First, and most important, talk to your landlord and identify the problem. Then, ask how you can correct the problem. You may want to make some suggestions of your own to show your landlord that you want to work things out.

B. Agreeing On A Solution

While negotiating, politely remind your landlord of the money and time saved if you two can solve the problem without a lawyer's help. As you talk and negotiate, explain your situation and suggest ways your landlord can help you solve the problem.

Example of a Successful Negotiation

Problem: You are behind in paying your rent.

Possible Solutions:

1. Ask your landlord if you could work for him in exchange for rent. If your landlord agrees, make sure that he puts this agreement in writing and that you get a copy.
2. Ask your landlord if you could work out some kind of payment schedule. For example, if your rent is \$100.00 a month and you are two months behind, you owe \$200.00. The landlord may let you pay \$150.00 for the next 4 months to pay back the \$200.00 you owe.

C. When Landlords And Tenants Don't Agree

Sometimes a landlord will not or cannot negotiate or help you solve a problem. Instead, the landlord may try to evict you. To successfully evict you, your landlord must get a court order. By making yourself aware of the process, you can better deal with an eviction problem.

To get a court order, your landlord must file a lawsuit against you. You then have a right to oppose this lawsuit. Opposing the lawsuit gives you a chance to explain why you feel your landlord should not evict you. In your explanation, you defend yourself against your landlord's accusations. The court calls your explanation your defense. A good defense may allow you to stay in the apartment. When, how, and what kinds of defenses you can use to prevent your landlord from getting a court order depends on the kind of lawsuit your landlord files against you. (For kinds of lawsuits, see the section entitled The Lawsuit and Representing Yourself).

Without a court order, a landlord cannot legally force you to leave, threaten you into leaving, lock you out, or put your belongings out on the street. If your landlord tries to throw you out without a court order, call the police. Ask the police to make out a report. If

the police do not want to respond (they sometimes say that a landlord-tenant dispute is not a criminal matter), keep after them, or their supervisor, until you get some action.

This is a criminal matter since, without a court order your landlord is trespassing and trespassing is a crime. You may also be able to get damages by way of a civil lawsuit for unlawful eviction.

IV. THE LAWSUIT AND REPRESENTING YOURSELF

A landlord cannot evict a tenant without a court order. To get a court order, a landlord must file a lawsuit against the tenant. Landlords normally file either rent and possession lawsuits or unlawful detainer lawsuits.

Once your landlord files a lawsuit against you, you should receive a **summons** and a **complaint**. A summons notifies you that a lawsuit has been filed against you and tells you when and where to appear in court. **IF YOU DO NOT APPEAR IN COURT, YOUR LANDLORD AUTOMATICALLY WINS.** This is called a **default judgment**. The complaint, sometimes called a petition, tells what kind of lawsuit the landlord has filed. If you get any kind of summons and complaint, try to talk to a lawyer. If you cannot get a lawyer to represent you, you may have to represent yourself.

Service

The way you receive a summons is called **service**. How you receive a summons is just as important as the kind of complaint your landlord files against you. You may receive a summons either by **personal service**, by **publication**, or by **posting**.

1. Personal Service

If someone comes to your home and gives a summons to you or a member of your household who

is over 15 years old, then you have been personally served.

Personal service give a judge the power to order you to pay back rent or damages and to order you to move out of your home. The judge has these powers over you whether or not you appear in court. If you don't show up in court, the judge may give your landlord the right to collect any money the landlord says you owe. The judge may also give your landlord the right to evict you from your home without any further notice to you.

If you receive your summons by personal service, you should appear in court. By appearing, you give yourself a chance to tell your side of the story to the judge.

2. Service by Publication or Posting

If you receive a summons by **certified mail** and/or a summons is **attached to the door** of your home, this is service by publication or posting.

If you receive notice by publication or posting and decide not to appear in court, the Court only has the power to order you to move out of your building. The Court cannot order you to pay money to your landlord in this proceeding if you do not appear in court and you were not personally served. However, the landlord could get a money judgment against you in a separate court action brought at a later time.

Once you go to court after receiving service by publication or posting, the Court then has the power not only to order you to move out, but also to order you to pay the back rent and/or damages which you may owe the land-lord. **You should consult an attorney to determine your best course of action in this situation.**

3. Generally

With either kind of service, the Court has the power to order you to leave your building whether you appear in court or not. If the judge orders you to move, you can expect the sheriff to show up at your door as early as **ten (10) days** after the court order. The sheriff can force you to move.

If you don't know whether you received the summons by personal service or publication or posting, **call the court and/or the sheriff's office and ask.**

Sample Service

Example 1

Someone appointed by the court hand-delivers the summons and complaint to your 16-year-old sister who lives with you.

- Since the summons and complaint were **personally served**, the judge can make decisions about the possession of the apartment or house and about money you may owe your landlord for back and/or damages. **You should appear in court.**

Example 2

You receive the summons and complaint by certified mail and you find a copy attached to your door.

- Since you received notice by **publication and posting**, as long as you do not appear in court, the judge can only make decisions about whether you get to stay in that apartment or house.
- Your landlord will probably receive the right to have the sheriff remove you and your belongings from the building but won't be able to collect any money from you in this proceeding. The landlord

could bring a separate action for the money against you at a later time.

- If you appear in court, the judge has the power to also make decisions about money that you may owe your landlord.

Example 3

You receive the summons and complaint by certified mail at home, and someone appointed by the court delivers another copy of the summons and complaint to you at work.

- You have been **personally served**.

You should appear in court. If you do not go to court, and your landlord gets a court order from the judge giving him/her back your property, you should get a notice in the mail containing the judge's order. This is called a **notice of default judgment** and authorizes the sheriff to put your belongings out.

If you receive such a notice, but have never received a summons and complaint, get an attorney if you can right away. Go see the judge immediately. Your time to ask the Court to **set aside the judgment** may be limited. If the Judge finds that you were never served or that you were served improperly, the Judge may set aside the judgment.

If you were served, but have a compelling reason why you were not in court that day, go see the judge immediately after you missed your court appearance (with an attorney if possible). Ask the Judge to set aside the judgment. Once again, the time to ask the Judge to set aside the judgment may be limited so **DON'T DELAY.**

If you never received the summons and complaint or the notice of default judgment and the sheriff is at your door to put your belongings out, ask the sheriff if you can see the papers. The papers should include among other things, a copy of the order from the judge. Make sure the name and address on the papers

correspond with your name and address. Tell the sheriff if you find an error. If you do not find any errors, explain to the sheriff that you never received a summons and complaint or a notice of the default judgment. Ask if you can get a few days to get an attorney. The sheriff may or may not choose to give you extra time. Regardless, contact an attorney as soon as possible.

B. What To Do After Receiving A Complaint And Summons

If you must represent yourself, the following guidelines should be helpful. The key to representing yourself is being prepared before you go to court.

1. **Mark the court date on your calendar.** This date appears on the complaint and refers to the date you must appear in court.
2. **Review the complaint form.** You must know why your landlord filed a lawsuit and what the landlord is asking from you.
3. **Gather evidence.** Evidence includes anything which will help you in presenting your case to the judge. Some important evidence includes:
 - the rental agreement;
 - receipts from past rental payments and/or for repairs;
 - the rental agreement;
 - receipts from past rental payments and/or for repairs;
 - letters to and from the landlord;
 - any agreements made between you and your landlord;
 - any pictures you have taken which may help in presenting your case;
 - witnesses such as other tenants, inspectors, or police officers;

- a copy of police reports and complaint numbers; and
- notices of code violations.

C. Types of Lawsuits

1. Rent and Possession

A suit for rent and possession means that your land-lord wants to regain possession of the house or apartment which you are renting because you have **not paid rent**. **In this type of lawsuit, the landlord does not have to give you any warning or notice.** The landlord is only required to demand rent before suing you. So, if the landlord tells you that you owe back rent and demands that you pay, you may receive a summons and complaint for rent and possession if you do not pay the rent the landlord claims you owe.

In a rent and possession suit, the landlord may also include a claim against you for any other unpaid sums, other than property damages. Examples of such sums could include parking fees, maintenance fees, utility charges and others. Although the landlord may ask for these unpaid sums, other than rent in a rent and possession suit, **the landlord may not get possession of the property if you pay all the rent money and court costs owed by the day of court and all that is left are the unpaid sums.** The landlord can get a money judgment for these unpaid sums. The landlord can get possession of the property plus a money judgment if you don't pay all the rent money owed by the day of court plus court costs and there are also unpaid non-rent sums due.

If after the trial, but before the sheriff puts your belongings on the street, you **both** file an appeal (See *Appealing the Judge's Decision*) **and** bring into Court the entire amount of the judgment (including court costs) the Court must order that your landlord no longer has the

right to get possession of the property. Ask the judge to order further proceedings in your case to “cease and be stayed.”

Example

Landlord sues tenant for \$450 in a rent and possession suit. Landlord claims the tenant owes \$300 in overdue rent and \$150 for parking and maintenance fees. On the court date, the tenant pays the \$300 in rent plus court costs (the filing fee the landlord had to pay to the Court to bring the lawsuit). The tenant does not pay the \$150 for parking and maintenance fees on the court date. The landlord can get a court judgment for the unpaid sum but may not get possession of the property because the tenant paid all the rent that was owed plus court costs.

a. Try to Negotiate

If you are served with such a lawsuit, try to negotiate with your landlord. **Get any new agreement in writing.**

If you and your landlord reach an agreement, make sure the landlord **dismisses the lawsuit**. To dismiss the lawsuit, the landlord must file papers with the court dismissing the case. Ask the landlord for a copy. To be completely safe, you should go to court on the court date and make sure the case is dismissed. The dismissal papers might contain the following language: **Case dismissed without prejudice; at plaintiff's costs.**

This language means that this action was dismissed but the landlord can bring the action again. It also means that the landlord pays the cost of filing the action she/he has dismissed. If the dismissal papers say case dismissed or case dismissed with prejudice this means the landlord cannot sue you again for the amount of money owed for the precise months and year that were the subject of this lawsuit.

b. Review the Complaint

If you cannot resolve the problem through negotiation, **call a lawyer**. If you cannot get a lawyer, figure out how you were served and look over the court papers closely. When you look over the court papers, make sure the lawsuit

- is for Rent and Possession;
- states the address where you reside;
- states how much rent is to be paid per month;
- states that the landlord demanded the rent from you;
- states that you have not paid the rent; and
- states the exact correct amount you owe (check your receipts).

c. Possible Defenses

After reviewing the court papers, you should know exactly what your landlord wants from you. Now you must think about possible defenses. Remember, your defense responds to your landlord's accusations and explains why you feel your landlord should not evict you. You must prove your reasons are good. Most importantly, you must prove that these reasons exist.

You can use such defenses as excessive rent, waiver of rent, warranty of habitability, and attornment in a suit for rent and possession. The questions and answers below describe and explain these defenses and list necessary evidence needed if you choose to use one of the defenses.

Unfortunately, just because you believe that you have a good defense does not mean that the judge will agree with you. Because of this, you should use all of the defenses that apply to your situation. You do not have to use just one defense.

i. Excessive Rent

Question: What if the summons and complaint states that I owe \$350 in back rent, but I really only owe \$200.

Answer: You should go to court on the date and time specified in the summons and ask the judge to dismiss the case because the landlord has asked for excessive rent. You will need proof such as the agreement of how much rent you are supposed to pay, rent receipts, cancelled checks, and/or letters between you and your landlord discussing the amount owed for rent.

ii. Offers to Pay Back Rent

Question: What if I offered to pay the landlord the full amount of money I owed prior to the landlord filing a rent and possession lawsuit against me but the landlord refused to take the money?

Answer: You should ask the judge to dismiss the case because you offered to pay the landlord the money you owed and the landlord refused to accept the money. You will need proof such as a letter from the landlord refusing to accept the money, a certified letter from you to the landlord about his refusal to accept the money, a written check or money order, or a witness to the landlord's refusal. If you have no proof, you can simply offer to pay the amount claimed plus court costs in front of the judge. Make sure you have a certified check, money order or cash for the full amount with you. Full payment on your court day of rent owed plus court costs, is your best defense.

iii. Warranty of Habitability

(See Maintaining a Safe and Suitable Place to Live section)

Question: What if my landlord has let the building run down and has not fixed such major problems as lack of running water even after I have notified him/her of the problems?

Answer: You should ask the judge to let you stay and continue to pay a lower rent, excuse you from paying the back rent owed, or make the landlord pay you for damages caused because of the landlord's failure to make needed repairs.

You will need such proof as:

- Pictures;
- Letters to the landlord asking him/her to make repairs;
- Copies of reports for code violations; and
- Witnesses such as the building inspector.

You will also need to add up your damages. For example, the landlord's failure to repair a hole damaged your furniture. Your damages will be the lost value of the furniture. If your furniture was worth \$800.00, and after the damages were done, the furniture was only worth \$300.00, then you should ask the judge to make the landlord pay you \$500.00 ($\$800.00 - \$300.00 = \500.00). Again, you will need evidence to show how much damage has been done. Such evidence might include receipts from the furniture that has been damaged or anything else that would show the value of the furniture before the damage. Not all damage can be seen. For example, you pay \$250.00 per month for rent. What if, for the last

three months that you paid rent, the running water in your apartment has not worked. You believe the lack of running water has lowered the value of your apartment by \$100.00 per month. For each month that you paid full rent without water, you overpaid your landlord \$100.00. Thus, your landlord has \$300.00 of your money you feel he/she does not deserve.

If the landlord files a rent and possession suit against you, you may want to file what's called a counterclaim against the landlord for the money you believe you overpaid the landlord. After the landlord presents his/her case against you to the judge and you have responded to his/her evidence, you would want to present your evidence against the landlord to support your counterclaim.

iv. Attornment

Question: What if the person suing me is not my landlord but someone who claims to have bought the property after I moved in? I have never seen this person's deed to the property and I have never paid rent to this person before.

Answer: You should ask the judge to dismiss this case under the **theory of attornment**. Tell the judge that you have **not accepted this person as your landlord**. You have not seen this person's deed to the property nor have you received any other reliable information as to whether this person owns the property. The evidence you will need in court is:

- the lease;
- rent checks; and/or
- receipts with the old landlord's name on it.

A tenant normally claims lack of attornment as a defense when a change in the ownership of

the apartment occurs. As a tenant, you cannot simply refuse to accept a new landlord.

Although you should not pay rent to a stranger, if this stranger proves himself as your new landlord, you have no choice but to pay or move. The landlord is required to notify a tenant in writing that he/she has legal title to the property, the date the landlord got legal title and the method used to obtain legal title. A copy of the recorded deed must be attached to the notice. Remember, once you pay rent to a new person, you accept him as your landlord and cannot use attornment as a defense. The best answer to this problem is to **always know who your landlord is**. If you ever have questions about ownership of the property you are renting you can find out that information in the Recorder of Deeds office in your city or county.

2. Unlawful Detainer

A landlord usually files an Unlawful Detainer suit when a tenant hasn't moved out after the lease ends or when a tenant doesn't move out after the landlord gives the tenant notice to properly end the lease. Even if the tenant has paid rent, he/she may still receive a summons and complaint for Unlawful Detainer if he/she does not move out after the landlord has refused to renew or notifies the tenant of the termination of the tenancy.

a. Try to Negotiate

If you receive a complaint for Unlawful Detainer, you should try to negotiate with the landlord like you would if you received a complaint for Rent and Possession. Don't forget to make sure the landlord dismisses the complaint if you come to an agreement.

b. Review the Complaint

If you cannot resolve the problem through negotiations, and you receive a summons and complaint for Unlawful Detainer, **call a lawyer**. If you cannot get a lawyer, follow the guidelines on service and look over the complaint closely. When you look over the complaint, make sure the complaint

- is for Unlawful Detainer;
- states the address
- states the terms of the rental agreement, (the date on which the landlord claims you should have been out, and how much the rent is per month); states that the landlord properly terminated the lease.

c. Possible Defenses

After reviewing the complaint, you should know exactly what your landlord wants from you. Now you must think about possible defenses.

- Remember, your defense responds to your landlord's accusations and explains why you feel you should not have to leave your apartment.
- To convince the judge that you should not have to leave, you must prove that your reasons are good and that these reasons really exist.

When you defend yourself against a suit for Unlawful Detainer, you must prove to the judge that you have the right to stay in your apartment. The questions and answers below describe and explain situations where an Unlawful Detainer suit was filed. **Remember, you are not limited to one defense, but all the defenses you use must apply to your situation.**

i. Lease Agreement Ended Improperly Written Lease For One (1) Year or More.

Question: I have a written lease for one (1) year. The lease ended on March 31, 1998, but I did not move out. On April 10, 1998, I received a summons and complaint for unlawful detainer, what can I do?

Answer: You may have no legal defenses because **you do not have the right to remain in the apartment after your lease ends.**

- If a lease is for a specified period of time, your landlord does not have to give you notice in order for the lease agreement to end. The lease ends automatically. However, if you are a Section 8 or public housing tenant you might have additional rights. Consult an attorney or your local Housing Authority or HUD office.

The judge's decision will probably go against you. However, if an eviction will cause extreme hardship, try to work something out with the landlord and the judge.

Question: I have a written lease which automatically renews from year to year. My landlord normally renews my lease every year on March 15th. This year I received a notice from the landlord on March 1st telling me he would not renew my lease. I did not move out.

On March 26th I received a complaint and summons for unlawful detainer. What can I do?

Answer: You should ask the judge to dismiss the case because the landlord ended your lease improperly.

- In order to properly end a written lease for one (1) year or more, the landlord must give you 60 days notice.
- Your landlord gave you 15 days notice.
- As evidence you will need:
- A copy of the lease; and
- A copy of the landlord's notice sent to you on March 25th.

Question: I have a written lease for one (1) year. The landlord sent me a notice on March 1 telling me that I had to be out by March 11 because I had breached my lease by having a party. I didn't think that what I did was any big deal, many people have done the same thing, so I did not move out. On March 22, I received a summons and complaint for unlawful detainer. What can I do?

Answer: When a tenant or landlord violates an agreement in the lease, the courts call that violation a **breach**. You should argue that you did not **materially breach the lease**.

- When a tenant materially breaches a lease, he/she violates an agreement specifically stated in the lease.
- For example, if a tenant keeps a pet when the lease specifically states no pets allowed, the tenant may have materially breached the lease.
- If you have not paid your rent, you may have materially violated your lease.

You must convince the judge that what you did did not violate the lease agreement. Ask other tenants who have done the same thing to

testify or write a letter for you stating that the landlord did not ask them to leave for breaching the lease.

ii **Month-to-Month (Written or Unwritten)**

Question: I have a month-to-month lease and I pay my rent on the 1st day of each month. On May 20th, I received a notice from the landlord telling me that I had to be out on June 20th. I did not move out. On June 30th, I received a summons and complaint for unlawful detainer. What can I do?

Answer: You should ask the judge to dismiss the case because the landlord **failed to give you proper notice**.

- In a month-to-month lease, the landlord must give you at least one full month's notice starting from the next date the rent is due.

If you pay rent on the 1st day of the month and the landlord gave you notice on May 20th telling you to be out by June 20th, this notice was not sufficient. The notice on May 20th would only be proper if it said you had to be out on July 1st.

To prove that your landlord did not end your lease properly, you will need a dated copy of the landlord's notice and past receipts showing that you pay the rent on the 1st of the month.

Expedited Eviction Proceedings

In certain instances where the landlord believes there is drug related criminal activity taking place in the tenant's unit or in front of the tenant's unit, or if the landlord believes an emergency exists where other tenants can be hurt or property significantly destroyed, a landlord may file

in court for an eviction of the tenant that may be done more quickly than an unlawful detainer eviction may take. This is called an Expedited Eviction Proceeding.

The tenant can remain in the unit if the tenant can show that the above activity did not take place or that the tenant did not assist in such activity or know about such activity. Another member of the tenant's household could be removed from the unit if the Court determines they engaged in the above activity.

If the landlord believes someone other than the head of household is involved, the landlord must send a letter to the tenant giving the tenant five (5) days to either get an order of protection against the offender or report the offender's conduct to the police or prosecuting attorney. If the tenant does this and can verify this to the landlord, this prohibits the landlord from filing under this quicker eviction procedure at this time. There are provisions for probationary terms under this law that would allow members of the household to remain in the unit if they meet certain conditions. **This can be a complicated proceeding and it would be best to consult an attorney if sued under this provision.**

D. Going to Court

1. The Court Date

A return date appears on the summons. If you cannot find the date on the summons, call the court immediately and ask one of the clerks to tell you the court date. On this date, **you must appear in court.**

- Make sure that you go prepared and on time.
On the day you go to court, you may or may not go to trial. In a trial, the judge listens to your side of the story and your landlord's side of the story, and then the judge makes a decision. The judge's decision is called a judgment. You may have a trial on the return date or, you and your landlord or his/her

attorney may decide whether to **settle on an agreement** or to get a date for trial.

- You may want to call the court before your return date to find out if there is a chance that the trial will happen on that day. Often, on the day you go to court, the judge will tell you to go talk to the landlord's lawyer and try to work something out.
- If you do reach an agreement with the landlord or his/her attorney, you will probably need to sign an agreement.
- This agreement states what you agree to.
- Once the judge approves the agreement, it is called a **consent judgment** and you must do what the consent judgment says.
Don't sign anything until you completely understand everything written in the agreement. If you do not feel comfortable trying to understand everything by yourself, bring a friend who can help you read and understand any written agreement.
- If the have any questions, don't ask the landlord or his/her lawyer.
- Ask the judge. You may have to wait to talk to the judge, but be persistent.

Remember, you will have to protect your own interests. Just make sure that everything you agree to is in writing and that you understand everything in the agreement.

If you cannot work something out, you may want to ask the judge for a continuance. A continuance gives you more time to prepare for the trial by moving the trial to a later date.

- During that time, you should try to get a lawyer.
- If you cannot get a lawyer, use that extra time to get all of the evidence

you can and to practice what you will say to the judge during trial.

If you ask for a continuance, make sure that you use the word “continuance.” If you tell the landlord, his/her lawyer, or the judge that you need some more time, they may misunderstand you. They could mistake your request as a request for more time to move out of the apartment instead of a request for more time to prepare for the trial.

You do not have to ask for a continuance. If you feel prepared enough and you do not plan to get a lawyer to represent you, you can set a trial date at that time. The trial date may not be the same day as the court date. However, don't take any chances. Make sure you are prepared to go to trial on the day the summons says you must appear in court.

When you appear in court, always remember to speak politely and respectfully to the judge and the landlord or his/her lawyer. Getting upset or losing your temper will not help you. Instead, quietly listen to the judge and the landlord or his/her lawyer. You will get your chance to talk.

2. The Judge's Decision

Once the judge hears both sides, he/she will make a final decision. The judge's final decision is called a **judgment**. Judges can decide landlord/tenant disputes in a number of ways.

a. Consent Judgment

If you reach an agreement with your landlord or his/her lawyer, you will need to sign the agreement.

- Don't sign anything until you completely understand everything written in the agreement.

This written agreement becomes a consent judgment once the judge approves. Remember, the judge's decision is called a judgment. When a landlord/tenant dispute is settled by a consent judgment, the judge has decided to approve the agreement you and the landlord reached.

b. Default Judgment

If you do not show up in court on your court date, the landlord automatically wins a default judgment. A default judgment usually gives the landlord whatever the landlord requested in the complaint. If you do not appear in court on your court date, your landlord may win the right to collect money from you for back rent and/or damages, or he/she may win the right to evict you, or he/she may win the right to collect money from you and evict you (see section on Service).

- Just remember, if you don't show up in court, your landlord automatically wins.

c. Money Judgment

In a money judgment, the judge decides for your landlord and gives your landlord the right to collect money from you for rent and/or damages.

d. Judgment for Possession

In a judgment for possession, the judge decides who gets to have possession of the apartment or house: you or your landlord.

- If the judge decides to give your landlord possession, you must move out of the building on the date stated in the decision.
- If you do not move out, the landlord can have the sheriff put your belongings in the street.
- If the sheriff does not act within seven days of receiving the necessary eviction paperwork the landlord may, within sixty (60) days of the judgment, in the presence of a police officer, enter your apartment and put your belongings on the street.

The judge can often grant a judgment for both possession and a money judgment.

e. **Judgment in Favor of the Defendant Tenant**

When the judge decides in favor of the defendant, this means the **tenant wins**. If the judge decides for you, you will not have to move out.

f. **Appealing the Judge's Decision**

If the judge decides in favor of your landlord, you have the right to appeal, or argue, the judge's decision. When you appeal a decision, you **must do so within ten (10) days** of the date of the decision. If you want to remain in the property pending the appeal, you must **post bond**.

If you do decide to appeal a decision, contact a lawyer as soon as possible. The landlord also has the right to appeal within ten (10) days of a decision that goes against him/her.

V. **SUBSIDIZED HOUSING**

The federal government designed subsidized housing programs to provide housing assistance to low-income individuals and families.

The government provides housing assistance through such programs as **Section 8** housing and **Public Housing**.

- Through these programs the tenant's rent can be no greater than 30% of their gross income, and the government pays the rest.

A tenant must apply at a local housing authority, and then must meet certain income requirements before qualifying for subsidized housing. Once a tenant qualifies to receive subsidized housing, the housing authority puts the tenant's name on a **waiting list**. The tenant must then wait until housing becomes available.
- Some waiting lists are so long, that you may have to wait two to five years or more before something becomes available.
 - However, the waiting lists for **elderly people and, people with disabilities** are much shorter.

If you or anyone in your household is elderly or has a disability, make sure the housing authority knows about this.
 - Some subsidized housing projects have their own waiting lists, which are often shorter.
 - Ask your local housing authority about these, and you can also apply at these complexes.

If you move or if your household size changes, make sure you notify each housing authority and/or housing complex you applied to. To find out whether

you qualify for subsidized housing, call the local housing authority in your area.

Tenants who receive governmental assistance have **additional rights** that non-subsidized tenants do not have.

- Subsidized leases may not automatically end after the first year, but can, in certain instances, continue for a number of years.
- The landlord must also have **good cause**, a good reason, for wanting to evict the tenant and must state that with specificity in a notice to the tenant.

Good cause includes not paying the rent or seriously violating an agreement in the lease. For example, if you agreed in the lease to take your garbage out every day, and you forgot to do so once or twice, you probably have not violated the lease seriously enough for the landlord to have good reason to evict you. Make sure you understand your lease and any notices you receive from your landlord.

A. Section 8 Existing Housing

Once a tenant qualifies for Section 8 housing, the tenant receives a **certificate or voucher** stating his/her eligibility. In Section 8 housing, the tenant has a private landlord and the government pays part of the tenant's rent to the private landlord.

- The tenant must locate a private landlord who accepts Section 8 subsidies and must notify the local housing authority and wait for governmental approval of the residence.

If the local housing authority approves the residence, the tenant may sign a lease and move in. Once a tenant and a landlord settle into a Section 8 agreement, both persons should do their best to follow the lease agreement.

- **Remember, a landlord needs a court order to legally evict any tenant.**

B. Other Section 8 Programs

There are a number of other Section 8 programs, which are very similar to the Section 8 Existing Housing Program. The major difference is that the landlord already made him/herself part of the Section 8 program, so you may not need to first have a Section 8 certificate, and the wait to get into the housing complex may be shorter. These are called project based Section 8 programs. In addition, before the landlord can evict you, he/she must have a good reason to evict, must specifically tell you what the reason is, and usually must give you the right to discuss the reason before the landlord makes a final decision to evict you or to allow you to stay.

- With these Section 8 programs, you cannot necessarily move to another Section 8 apartment since you do not have a certificate or voucher.
- The Section 8 subsidy is connected to the apartment in which you are living.

C. Public Housing

The public housing program is a lot like the Section 8 program, except that the government owns the apartment complexes, and is the landlord. Tenants who receive public housing assistance have **additional rights** that non-subsidized tenants and Section 8 tenants do not have.

- In public housing, if the landlord (usually the housing authority) wishes to evict a tenant, the tenant should receive a specific notice stating the housing authorities wishes.
- This notice should invite the tenant to go to an **informal grievance discussion**.

At this discussion, the tenant and the housing authority should try to identify the problem and work the problem out. If the tenant and the housing authority do not come to an agreement, the tenant should receive a written notice stating the specific reasons why the housing authority still wants to evict and telling the tenant that the tenant has a right to request a **formal hearing**.

- At a formal hearing, the tenant should get a chance to tell an unbiased decision maker why he/she should not be evicted, and the decision maker must send the tenant a written decision which explains why the decision was made.
- Even if the tenant does not win at the hearing, the housing authority must still sue and get a court order to legally evict the tenant.

Public housing tenants should talk to a lawyer immediately after receiving any notices about eviction. If the problem the Housing Authority wants to evict the tenant over involves criminal activity the tenant may not have the right to the grievance process and may be limited to contesting this matter in court.