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Tenant's Rights

Signing the Lease

When a lease is signed by both the landlord and the tenant, it becomes a legally binding contract. If one of the party members does not fulfill the terms of the lease they can be sued. Before signing the lease consider the following:

- Read the entire contract and ask questions about anything that is unclear
- Don't rely on verbal statements, write down any promises or agreements to keep you protected
- Changes can be made to the lease if they are agreed upon by both landlord and tenant

Security Deposits

Most landlords will require a security deposit at the beginning of the rental period. This money goes toward any damages beyond ordinary wear and tear the tenant or guests cause to the rental unit or any other money owed to the landlord.

- Before giving the security deposit, inspect the premises you will be renting for any damage. Go through each room and write down the condition/make a list (called an inspection report). Sometimes the landlord may have one to use. Make sure that both you and the landlord sign and date the list, but you can add a category/information if it is not on there. Make sure to keep the list in a safe place; you will want it when you are vacating the residence.
- In South Dakota, the security deposit cannot exceed one month's rent except when conditions exist which may lead to additional maintenance costs (i.e. having a pet).
- The landlord must either return the deposit (within two weeks after the tenant moves out) or provide a written statement giving the reason for not returning the deposit (within 45 days).

Basic Tenant Rights

As a tenant, there are certain rights that you are entitled to. To protect these rights, it is crucial that you understand them:

- **Anti-Discrimination** – Landlords may not discriminate against tenants on the basis of race, gender, familial status, religion, ethnicity, national origin, or disability. To learn more about your rights or to file a complaint, visit HUD's Fair Housing webpage.
- **Right to a Habitable Home** – Landlords must keep rental property in reasonable repair, safe and sanitary. This includes adequate heating, water, electricity,

cleanliness, etc. The Sioux Falls Planning and Development department recommends basic steps for tenants living anywhere in South Dakota.
    - Note the details – including taking pictures of the problem and tracking the date, time and other specifics.
    - Review your lease agreement - there are minor problems that a landlord may not be required to fix.
    - Contact your landlord or property manager about the problem - as a tenant you have the responsibility of reporting any issues and waiting a reasonable amount of time for the landlord to make repairs.
    - If the landlord fails to make repairs, you may choose to move out or make the repairs on your own and deduct the cost of repairs from the rent. If costs exceed one month's rent, you may withhold rent, depositing it in a separate bank or savings account. Always provide written notice to the landlord before withholding rent.
    - Any damage caused by your negligence is your responsibility.
- **Right to Privacy** – Tenants have the right to be free from unreasonable interference from the landlord.
    - A landlord has the right to make an inspection or repair but only with prior 24-hour notice.
    - In the event of an emergency, a landlord may lawfully enter the apartment without prior notice.

Pets and Service Animals

Check your lease before getting a pet. Your lease may require permission or may prohibit animals. If you have an animal without permission, you may be evicted. However, if you have a disability and depend on a service or companion animal your landlord may be required to make accommodations, even if there is a "no pets" policy.

Federal guidelines for service animals were changed in spring of 2026 to require accommodations only for pets trained to perform specific disability-related services. Check the new rules carefully to see if the changes affect you.

Eviction

To be evicted, your landlord must file an eviction lawsuit against you and must have legal cause. South Dakota defines legal cause as failure to pay rent and violation of the lease or rental agreement. Typically, the landlord will be required to give written notice terminating the tenancy before evicting the tenant. There are three basic types of termination notices:

- Pay Rent or Quit – if tenant fails to pay rent, notice is given that allows the tenant to pay the rent or move out
- Cure or Quit – if the tenant violates the lease or rental agreement such as a no-pets clause, typically a set amount of time will be given in which the tenant can correct the violation

- Unconditional Quit – issued if tenant has committed serious violations to the lease, has caused serious damages, engaged in illegal activity, or been late with rent on more than one occasion. Typically, no notice is given and there is no option to correct the behavior

Following notice of termination, if you decide not to move out or fix the violation, the landlord will serve you with a summons and complaint for eviction. You may go to court and if you lose the case you will be subject to a sheriff's escort in which a sheriff or marshal will escort you off the property.

Termination Without Cause

If the landlord wants a tenant to move but does not have legal cause to evict, they must wait until the lease has expired before expecting the tenant to move. Time frames depend on the lease:

- Month-to-Month Tenancy: must give tenant one month's notice
- Fixed Term Lease: landlord must wait until lease ends, not required to give notice to move unless required through the terms of the lease

Defending an Eviction

Eviction can make it hard to find housing, can affect credit and does not necessarily relieve you from paying rent. If you want to fight the eviction you may have good legal defense if you feel you have been discriminated against or the landlord has failed to maintain the habitability of the rental property. See HUD's South Dakota Hompage or contact 211 for legal service and tenant's rights resources.

For more information on tenant's rights, call 211 or search our online database:

- www.helplinecenter.org/2-1-1
    - Enter your Zip Code
        - Select Housing / Shelter category
            - Tenant's Rights Information/Counseling

Sources:

- HUD Fair Housing: https://www.hud.gov/program_offices/fair_housing_equal_opp
- HUD Service Animal Enforcement Guidelines Changes: https://www.hud.gov/sites/default/files/hudclips/documents/AS-Trainor-Enforcement-Guidance-Assessing-Requests-for-the-use-of-an-animal-as-a-reasonable-accommodation-under-the-fair-housing-act.pdf
- HUD South Dakota Legal Assistance: https://www.hud.gov/states/south_dakota/homeless/legalaid
- Sioux Falls Planning and Development – Code Enforcement Information for Tenants
- South Dakota Consumer Protection: https://consumer.sd.gov/docs/LLTenGuide_2015-5.5x8.5_online2.pdf

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