

# TENANT GUIDE

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***For more information or for further assistance with rental housing issues, please contact:***

**Watertown Community Housing  
617-923-3505 - [Watertowncommunityhousing.org](http://Watertowncommunityhousing.org)  
- 63 Mt. Auburn St., Watertown, 02472 -**

# 1. TENANTS' TOP TEN: THINGS TO KNOW

**1. Legal & Illegal Fees:** A landlord can require you to pay the first month's rent, the last month's rent, and a security deposit in an amount equivalent to one month's rent, a lock fee and a portion of an inspection fee. A licensed realtor can legally charge a broker's fee. It is illegal for a landlord to charge a holding fee or pet fee. A landlord also can't charge a broker's/finder's fee unless he is a licensed realtor.

**2. Discrimination:** A landlord has the right to refuse to rent to a prospective tenant based on a poor credit history or insufficient income to reasonably cover the cost of the rent. Families with children may be legally denied tenancy in an owner occupied two-family house, or in a two or three family house in which an elderly or infirm person resides. It is illegal for someone to discriminate against you based on your race, color, national origin, sex, sexual orientation, marital status, religion, disability, source of income, rent subsidy, status as a veteran.

**3. Leases and Tenancies-at-Will:** Your landlord may offer you a lease, which typically runs for one year, or a verbal or written tenancy-at-will agreement, which runs from month to month. A tenancy-at-will agreement gives you the opportunity to move out after giving the landlord a proper 30-day written notice, but it also allows the landlord to ask you to leave or to give you a rent increase with a proper 30-day written notice. A lease offers you more security. Read the agreement completely before signing it – ask for one or two days to be able to review the document first – and keep a copy for your records.

**4. Security Deposits & Last Month's Rent:** Your landlord can legally require you to pay a security deposit and the last month's rent in amounts no greater than the equivalent of one month's rent for each. If your landlord collects them, he must, among other things, give proper receipts, pay interest on an annual basis, and in the case of the security deposit, put the money in a separate account in a bank located in Massachusetts.

**5. Renter's Insurance:** You have probably invested more in personal property than you realize. Computers, stereos, TVs, clothing, jewelry and furniture would be expensive to replace in case of fire or theft. Renter's insurance is a good idea and can be surprisingly affordable.

**6. Code Violations:** All tenants have a legal right to an apartment that is in compliance with local and state sanitary and building codes. Violations should be reported to your landlord in writing. If no repairs are made, call the Inspectional Services Department at (617) 635-5322.

**7. Noise:** Be considerate of your neighbors. Loud parties or loud music, especially at night, may lead to complaints and may even cause your landlord to evict you.

**8. Late Rent Payment:** There is no "grace period" for rent. If it is due on the first of the month, rent paid after that date is considered late. Your landlord may charge you a late fee, but only if this is specified in a written agreement and only if the rent is at least 30 days late.

**9. Evictions:** If your landlord wants to evict you, he must terminate your tenancy with the proper written notice and then file a summary process action in court. Ultimately, only a judge can evict you. Make sure you respond to any court documents you receive. If you do not show up to defend yourself in court, you will lose by default.

**10. Mediation:** If you and your landlord have a dispute that you can't resolve between yourselves, consider mediation. Mediation is an informal process in which you and your landlord can try to reach a resolution with the help of an impartial mediator.

## 2. PREPARING TO RENT AN APARTMENT

An apartment may seem like a dream apartment, but there are many costs and issues to consider in determining whether the apartment is right for you, such as:

- Affordability of rent
- Utilities and heating costs
- Up-front fees
- Moving expenses
- Availability of off-street or on-street parking
- Access to public transportation
- How many people are allowed to live in the apartment
- Whether pets are permitted
- Presence of lead paint, if child under age 6 will be living in the apartment
- Whether subletting is permitted
- Whether a re-rental inspection has been done
- Whether laundry facilities and/or refrigerator are provided

All agreements between you and your landlord should be put in writing. Make sure you get signed and correctly dated receipts for any money that you give to the landlord and make sure the receipt states the purpose for which payment was made. Save cancelled checks and copies of money orders.

Keep copies of the following:

- Lease
- Copy of security deposit payment
- Letter of conditions signed by both parties
- Rent payments: receipts or cancelled checks
- Receipts for any work/improvements you make to the property
- Any letters you send to your landlord and any he/she sends to you

Things to get in writing:

- Any changes to lease
- Requests for repairs
- Responses from landlord regarding repairs
- Correspondence from any official agency: health department, housing authority, lawyer, etc.

## 3. SEARCH TIPS

1. Let everyone know that you are looking for an apartment. The more people you involve the easier it will become to know about an apartment that is becoming available. This could help you avoid paying a realtor's fee.
2. Leave your children with a sitter unless they are very well-behaved.
3. Don't do business over the phone. According to the Fair Housing Center of Greater Boston, low and moderate income tenants tend to face discrimination when dealing with landlords over the phone (see section on discrimination, page 16).
4. Be honest. If landlords ask about your credit and it is bad, tell them. But reassure them That you are working to fix it and that it will not interfere with your ability to pay the rent. Then recommend they call one of your references.

5. Be ready to close the deal – bring these along when you view an apartment:

- A friend
- A copy of your credit report
- A list of past residences
- Landlord and personal references with phone numbers
- Income verification – pay stubs, tax returns, employer’s name and telephone number.
- If you have a housing voucher, bring your agency’s Request for Tenancy Approval
- A letter describing yourself and why the landlord should rent to you

## 4. RENTAL HISTORY – YOUR CREDIT REPORT & CONSUMER FILE

### Credit

When you apply for an apartment, the realtor or landlord will probably get a copy of your credit report. You should know what is in it. There are three major credit reporting agencies, and they are each required to give you a free copy of your credit report once a year, if you ask for it.

#### **Equifax**

(800)-685-1111

Web site: [www.equifax.com](http://www.equifax.com)

#### **TransUnion LLC**

(800) 888-4213

Web site: [www.transunion.com](http://www.transunion.com)

#### **Experian**

(888) 397-3742

Web site: [www.experian.com](http://www.experian.com)

Or order all three reports at once from:

[www.annualcreditreport.com](http://www.annualcreditreport.com)

1-877-322-8228

### Background checks

Some landlords and housing authorities will also do background checks. The realtor or landlord may ask if you have a record. If you have anything that may show up on this report, it is best to be up front about it, because they will find out anyway.

### Consumer File

Many landlords in Massachusetts do credit checks with the big credit bureaus, or subscribe to a landlord’s credit information service called First Advantage (formerly Infocenter). Much like the credit bureaus keep credit files for anyone with credit history, First Advantage keeps a “consumer file,” documenting a person’s rental history. If you are listed with First Advantage as a bad tenant, the landlord may decide not to take the risk to renting to you.

First Advantage compiles information from credit reports, court orders, and other information sources. If you’ve ever been evicted, it will be noted, along with the landlord-stated reasons for eviction. Even if there was no eviction case, a landlord subscribing to First Advantage can put his complaints about you on record. The record may not include information which is helpful to you, such as the fact that you withheld rent because of bad conditions in an apartment, and that the court found in your favor.

If First Advantage has records on you, you can try to explain the bad rental history to your prospective landlord. First, you should get a copy of the First Advantage record so you can see what is listed. To get a copy of the record, you must send a request by mail. This must include an official “consumer disclosure request” form and a photocopy of several id sources. For full details, please visit [www.residentscreening.com](http://www.residentscreening.com) and click on the “Consumer Relations” tab at the top. You may also call 1-888-333-2413.

## 5. TENANCY

A **lease** is a contract that states that you and your landlord's agreement for the use and occupancy of an apartment. Most leases are good for one year. A lease is only valid if it is signed and dated by both the tenant and landlord, and states the date on which the lease ends. It should include the following information:

- amount of rent
- the date on which your tenancy ends
- the amount of your security deposit (see section on Up-Front fees on pg 12-13)
- all of your rights concerning the security deposit
- the names, addresses and phone numbers of your landlord or any other person responsible for the maintenance of the property

With a lease:

The landlord cannot raise your rent until the end of the lease term

The landlord cannot evict you until the end of the lease term unless you violate the lease

The rules are usually clear and agreed to in advance

But:

You are bound to the lease term, meaning if you want to move sooner you may have to buy out your lease

You are bound by the conditions within the lease (for example, no pets or no waterbeds, etc.) and if you violate them you may be evicted

**Tenancy at Will** means you have permission to live in the apartment on a month to month basis. If you are living in an apartment without a written lease, and have the permission of the landlord, or if you have lived in a rooming house for more than three consecutive months, you are a *Tenant at Will*. This type of tenancy is also known as a month-to-month lease because you are still required to pay rent every month.

With tenancy-at-will

You can move out at any time by giving your landlord 30 days notice

But

The landlord can increase your rent or evict you with only thirty days notice.

## 6. RENT INCREASES

If the landlord wants to increase your rent, s/he must send you a written notice telling you of the rent increase. You must receive this notice at least 30 days (or one full rental period) in advance. The landlord may send you at the same time a notice to quit. A notice to quit is the document that the law requires a landlord to send you if s/he wants to end your tenancy. Landlords may send tenants notices to quit and rent increase notices at the same time so that if tenants refuse to pay the increase, landlords have the option of beginning an eviction case in court.

When you get a notice of a rent increase you can't ignore it and make it go away; you have three options:

1. Pay the rent and stay
2. Refuse the increase and look for another place to live or
3. Stay and challenge the increase

If you refuse the increase and look for another place to live, you should continue to pay your old rent on time. Your landlord may then begin eviction proceedings (more on evictions below). If you decide to challenge the increase you can:

1. Try to negotiate with your landlord directly
2. Form a tenants association and as a group apply pressure on your landlord (Watertown Community Housing may be able to help you with this)
3. Withhold your rent if there are poor conditions in the building which would violate the State Sanitary Code. You should contact the City's health Department to do a complete inspection. The City will deal directly with the landlord. The landlord may try to evict you, but if there are code violations the judge will not allow the landlord to evict you until the repairs are made.

## 7. BREAKING A LEASE

Sometimes when you have a major life change you may be forced to break your lease. There are some steps you can take to make this easier both for you and for the landlord.

**Notify your landlord.** The sooner the better. Letting your landlord know you will be leaving as early as possible will give him the best chance to lessening his losses by re-renting the unit as soon as possible. Notifying your landlord early will also put you in a good position to negotiate a settlement. Explain your situation to the landlord and he may be willing to negotiate with you.

**Negotiate with your landlord.** Offer to surrender your security deposit and pay a couple of months rent to be let out of the lease. See if can come to a mutually agreeable arrangement that will let you move out, allow your landlord to lessen his losses, and you keep your credit rating intact.

**Sublet.** Your landlord may agree to let you find a tenant who will sublet from you. You keep your lease with the landlord but you become the landlord to the tenant that is subleasing. You are responsible to see to it that the rent is paid on time and for any damages.

**Find someone to assume your lease.** If you know someone who is looking for an apartment and credit-worthy, you might be able to work out a deal where this person takes over your lease with the landlord. In this case, your lease is ended, and the new tenant takes over the terms of the lease directly with the landlord. This gets you out of your lease, lessens the landlord's losses, and keeps you from becoming a landlord yourself.

**Help the landlord find a new tenant.** Offer to place classified ads yourself, refer anyone you know to your landlord, make your apartment available for showing to prospective tenants, consider even holding an open house to get prospective new tenants. If you help the landlord rent the apartment as soon as possible you will lessen your financial liability.

**Be prepared to pay.** Most likely, if you break your lease, you will lose your security deposit. While some states have limits on how long the landlord can continue to charge you rent after you have left, many do not, and you could be responsible for paying the remainder of your lease (often in full, up front). In many areas you can also be charged by the landlord for his costs in re-renting the apartment (placing ads, showing the unit, cleaning, etc.).

However, the landlord is required by law to do everything in his power to re-rent the unit as quickly as possible. He isn't required to give your unit top priority, but neither can he leave it empty to keep collecting from you. Look at the classified ads to see if he is advertising it. If you still live in the area, drive by to see if there is activity in your old apartment. Talk to neighbors to see if anyone has moved in or if the unit has been shown.

## 8. EVICTIONS

**Your landlord cannot “throw you out!” Only a judge can make that decision.** A landlord must go to court and obtain permission from a judge to evict a tenant. In order to legally evict a tenant, a landlord must follow specific procedures. A landlord must:

- 1) Properly terminate a tenancy (Notice to Quit), and
- 2) Get permission from a court to legally take possession of your apartment.

Reasons why you may be evicted:

- Not paying the rent. If you don't pay your rent the landlord only has to give a 14 day Notice to Quit versus the normal 30 day Notice to Quit.
- Violating your lease
- Using the apartment for certain illegal purposes
- If you are a tenant at will and have no lease, the landlord does not need a reason to evict you but must still follow the proper procedures.

It is illegal for your landlord to:

- Move your belongings out of your apartment
- Change your lock
- Shut off utilities
- Enter your apartment without proper notice
- Evict you for reporting the landlord to the Health Department
- Evict you because of your race, religion, marital status, family make up, etc.

If your landlord does any of these things you may:

1. File a “demand letter”
2. Go to court and get a “temporary restraining order”
3. Call the Police – changing locks or shutting off utilities is a crime.

## STEPS FOR EVICTION

### 1. Notice to Quit

The landlord must send you a written “Notice to Quit” saying he/she wants to end your tenancy. This is not an eviction notice or a court order. It is just the notice your landlord must give you before s/he can begin eviction proceedings against you.

If you are being evicted for nonpayment of rent, the landlord must give you 14 days notice to quit. This means the landlord must wait at least 14 days from the date you receive the notice before s/he can go to court to start eviction proceedings. But you can pay back your rent within 5 days of receiving this notice and avoid eviction as long as you have not received another 14 days notice within the past year.

If the eviction is for any other reason, you must receive at least one full rental period or 30 days in advance, whichever is greater.

### 2. Summary Process and Complaint

After the notice period expires, the landlord can go to court and file a Summary Process and Complaint against you. This complaint says that the landlord is bringing court action to evict you. It is also a summons, requiring you to appear in court for a hearing on a certain day and the date on which the answer must be filed.

### 3. Answer

The answer is a written response from you stating why you should not be evicted. It is available at the local district court. The answer will also give you the chance to make counterclaims against the landlord which may include health codes violations, retaliation, harassment, security deposit violations, or improper eviction procedure. It must be received by both the court and the landlord by the Monday before your court date. Keep a copy for yourself.

### 4. Court Hearing

In court, you and/or your lawyer can present your side of the story. You can bring witnesses and evidence, and cross-examine the landlord and his/her witness.

### 5. Judgement

The judgement about whether or not to evict you is made by a judge. If your landlord wins in court, a constable or deputy sheriff will be ordered to move you and your things out. If you are being evicted for something that is not your fault, the court may allow you several months to find a place to live.

## EVICITION STORAGE LAW

In the case of an eviction, the landlord does not have the right to remove your property himself. If the landlord gets possession of your apartment through the court, the court will give him a court order called an execution. The landlord then gives this court order to a constable, who is the only person who can legally move you out. The constable must give you a written notice of at least 48 hours – not including weekends or holidays.

The notice will outline the details of the storage law, which:

- Requires that you be told who is storing your property
- Gives you the right to choose where your property is stored
- Requires that your property be inventoried before being put in storage
- Requires that all fees charged by an eviction storage company be filed with and approved by the Department of Public Safety
- Gives you a one-time access to remove items of primarily personal or sentimental value free of charge

For more information regarding the eviction storage law, visit [www.MassLegalHelp.org/EvictionStorage](http://www.MassLegalHelp.org/EvictionStorage)

## 9. STATE SANITARY CODE

**The State Sanitary Code** contains detailed requirements for the physical condition of all residential rental units. This includes many requirements that we ordinarily would not associate with "sanitation," such as requirements for security locks and who pays for utilities. Here are some of its requirements:

- **Heat:** The landlord must provide and maintain a heating system in good operating order. The landlord must provide and pay for heating fuel unless you are required to supply the fuel under a written rental agreement. From 16 September to 14 June every room must be heated to a temperature of at least 68 degrees between the hours of 7:00 a.m. and 11:00 p.m. and at least 64 degrees between the hours of 11:01 p.m. and 6:59 a.m. During the heating season, the maximum heat allowable in the apartment is 78 degrees.
- **Cockroaches and Rodents:** The landlord of a dwelling of two or more units must maintain the units free from rodents, cockroaches, and insect infestation and is responsible for exterminating them. Upon reasonable advance notice, you must give the landlord access for extermination.

- **Kitchens:** The landlord must provide, within the kitchen, a sink of sufficient size and capacity for washing dishes and kitchen utensils, a stove and oven in good repair, and space and proper facilities for the installation of a refrigerator. NOTE: The landlord does not have to provide a refrigerator. However, if the landlord does provide a refrigerator, or agrees to provide one, there are laws which require s/he to continue doing so.
- **Water:** The landlord is usually responsible for providing and paying for water. The landlord must pay for heat and hot water unless there is a written agreement to the contrary. The landlord can require you to pay for water *only if all of the following requirements are met:*
  - Landlord has installed sub-meters to measure the actual water used in each unit.
  - Landlord has had low-flow fixtures installed.
  - The tenant's tenancy began on or after 3/16/05.
  - The previous tenant was not forced to vacate the unit.
  - There is a written agreement signed by the landlord and tenant that clearly states that the tenant is responsible for a separate water bill, and
  - The landlord has filed proper certification with the local Board of Health and the Inspectional Services Department.
- **Hot Water:** The landlord must provide and maintain in good operating condition the facilities capable of heating hot water to a temperature of not less than 110 degrees and not greater than 130 degrees Fahrenheit, in a quantity and pressure sufficient to satisfy the ordinary use of all plumbing fixtures. The landlord is required to pay for the fuel for heating the water unless a **written** rental agreement states otherwise.
- **Structural Elements:** The landlord must maintain the foundation, floors, walls, doors, windows, ceilings, roof, staircases, porches, chimneys, and other structural elements of the dwelling so that it excludes wind, rain, and snow; is rodent-proof, weathertight, watertight, and free from chronic dampness; is in good repair; and is, in every way, fit for the use intended.
- **Snow Removal:** The landlord is required to keep all means of egress at all times in a safe, operable condition. The landlord must keep exterior stairways, fire escapes, egress balconies, and bridges free of snow and ice. The landlord can require you to be responsible for snow removal only for pathways and stairways exclusive to your apartment that are not common to the exit of any other unit.
- **Extermination:** The owner of a rooming house or in any other dwelling containing two or more dwelling units is responsible for maintaining the premises free of rodents, skunks, cockroaches, and insect infestation.
- **Garbage and Rubbish:** The owner of a rooming house or any other dwelling containing three or more dwelling units is responsible for collection and final disposal of garbage and rubbish. The owner of any parcel of land, vacant or otherwise, is responsible for maintaining it free from garbage, rubbish, or other refuse. In any dwelling, the owner is responsible for maintaining common areas free of garbage, rubbish, other filth, or causes of sickness. As a tenant, you are responsible for maintaining, in sanitary condition, parts of the building which you occupy or control exclusively.
- **Smoke and CO detectors:** The landlord is required to provide and maintain all smoke and carbon monoxide detectors required by state laws and regulations.
- **Notice of Entry:** In general your landlord must obtain your permission to enter your apartment and must give you 24 hour notice. You are required to provide your landlord with reasonable access to your apartment so that the landlord can 1) inspect the apartment, 2) make repairs or 3) show the apartment to prospective tenants. The law does not require that you give the landlord a key.
- **Locks & Safety:** Every entry door of the building, every door of the main common entryway, every exterior

door into the building, every entry door of each apartment, and every openable exterior window must be capable of being reasonably secured against unlawful entry and properly fitted with an operating locking device. The main entry door of a building containing more than three apartments must be equipped to close and lock automatically with a lock, including a lock with an electrically-operated striker mechanism, a self-closing door, and associated equipment. Every opening exterior window must also be capable of being reasonably secured and properly fitted with an operating locking device. These are the minimum requirements, but if you have any special needs, you should consider asking your landlord for additional safety provisions. If you are injured or your property is stolen by an intruder, your landlord's actions will not be measured by the minimum legal requirement, but by what was *reasonable*.

Some landlords or their employees regularly leave security doors open, or give workers keys to tenants' apartments and leave them alone there, or fail to respond promptly to requests to repair locks. In such circumstances, you should complain to the landlord in writing and keep a copy, so that if later you suffer an injury or a theft, you will be able to show that the landlord had notice of the condition. According to a recent court decision, the landlord can also be held liable for crimes committed against tenants by the landlord's own employees.

### Reporting Code Violations

If you think that there are code violations in your apartment, you should first notify the landlord in writing of your concerns. If you cannot get action from your landlord or if you do not want to deal with him or her, call the local code enforcement agency and ask for an inspection. The local code enforcement agency can order the landlord to make repairs. It can also document conditions. Code violations can be used as a defense to any court action brought by your landlord. Your landlord is prohibited from retaliating against you for reporting actual or suspected code violations.

When the inspector comes, s/he should fill out an inspection report and leave a copy with you. If the inspector finds a code violation, the inspector should issue a written order to your landlord and mail you a copy. This is required by the State Sanitary Code. Save all documents; they are your evidence in case of a court hearing.

### Next Steps

Perhaps the violation will be corrected promptly, but if your landlord is a chronic violator of the code – for example, if your heat goes off repeatedly – you should continue calling the code enforcement agency to document your complaint. Now you also have additional options:

- **Rent Withholding:** You have the right to stop paying rent if conditions are not being corrected and you meet all of the following requirements:
  - The conditions are serious enough to endanger or materially impair your health or safety;
  - You can show that your landlord knew of the conditions before you were in arrears in rent. Since your landlord may lie about what you reported orally, this usually means that you must be able to show a copy of a written complaint from you or a notice from the local code enforcement agency before you began withholding rent. The law presumes that the landlord knew of conditions which have existed since you first moved in. But if you have lived in the apartment for several years and you can't show that you've complained about the condition in that time, you may have trouble getting the benefit of this rule.
  - The violations were not caused by you or by anyone acting under your control;
  - " The violations can be repaired while you continue to live in the apartment. Lead paint is an exception to this rule. The landlord is required to provide you with alternate housing while your apartment is being de-leaded.

If you decide to use this remedy, you should consult with an attorney to make sure that you have followed all the correct procedures. If you have done so, you cannot be evicted, but you may be required to pay back some of the withheld rent. While the law does not require it, it is very important to put aside all

withheld rent in a separate account and keep it there until the dispute has been resolved. When rent-withholding disputes get to court, landlords usually emphasize the non-payment of rent and try to make the tenant look like a deadbeat. It is important to the credibility of your case for you to show that you have all the rent money put aside.

- **Repair and Deduct:** Under certain circumstances, you can make the repairs yourself and then deduct the cost from the rent. To do this, you must first have an inspection and verification that violations exist and that they may endanger your health and safety. After the landlord has been notified by the code enforcement agency, s/he has 5 days to begin repairs and 14 days to substantially complete them. If the landlord does not make the repairs within the time limit, you may have the repairs made yourself and deduct the cost from the rent. You may not deduct more than 4 month's rent in any 12-month period. If you decide to repair and deduct, save all bills and receipts for materials and labor. The landlord may sue you for excessive deductions, but cannot combine that claim with an eviction action.

## 10. UP-FRONT FEES

**Finder's Fee:** Only a licensed real estate broker or salesperson can charge a fee for the purpose of finding an apartment. The amount, due date, and the purpose of the fee must be disclosed to you prior to any transaction. The fee is no set amount to the fee, as it is a contractual arrangement between the licensed broker or salesperson and you.

**Prepayments:** Before you move in, the landlord can only collect 1) the first and last month's rent, 2) one month's security deposit and 3) the cost to purchase and install a lock and key. Legally, you do not have to provide any more than that.

**Last Month's Rent:** Last month's rent is the pre-payment to the landlord for the last month of tenancy. It should not be greater than the amount of one month's rent. Upon receiving this payment, the landlord must provide a receipt which includes: 1) amount received 2) date it was received 3) the money's intended application, 4) the name of the person receiving it 5) a description of the premises being rented 6) a statement of the interest to be paid and 7) a statement that the tenant should provide the landlord with a forwarding address where the interest may be sent. Unlike security deposits, landlords are *not* legally required to hold last month's rent in a separate bank account.

**Security Deposit:** A security deposit is an amount of money that the landlord gets in advance to protect him or her from lost rent and/or for damages caused by you to your apartment. A security deposit must be kept in a separate interest bearing account in a bank located in Massachusetts. Upon receiving the security deposit, a landlord must give the tenant a receipt, which must state: 1) the amount of the security deposit 2) the name of the person receiving it 3) the date on which it is received and 4) a description of the premises being rented. Within thirty days of receiving the security deposit, a landlord must give you a second receipt containing: 1) the name and location of the bank where the money is being held 2) the account number and 3) the amount of the deposit.

**Statement of condition:** If a landlord or agent takes a security deposit, s/he must give you a signed, separate statement of the present condition of your apartment including a comprehensive list of any existing damage. The landlord/agent must provide you with this statement upon receipt of the deposit or within 10 days after the tenancy begins, whichever is later. If you do not agree with the contents of the statement, you must return a corrected copy to the landlord within 15 days after you receive the list or 15 days after you move in, whichever is later. If you fail to return the list and later sue to recover your security deposit, a court may view your failure to do so as your agreement that the list is complete and correct. If you submit a separate list of damages, the landlord must return it within 15 days of receipt with a clear written response of agreement or disagreement.

The signed statement and the original condition statement are the basis upon which future deductions for damage will be made. If the landlord does not give you a statement of condition, you should write your own and send a copy to the landlord or agent and keep a copy for your records.

**Deductions for damages and repairs:** A landlord has until 30 days after the end of the tenancy to return the entire security deposit and its accrued interest. The landlord is entitled to deduct money from the security deposit for one of three reasons: 1) unpaid rent which had not been withheld validly 2) the repair of damages caused by the tenant (this does not include general wear and tear), and 3) unpaid increase in real estate taxes (if you were obligated to pay it under a valid tax escalator clause in your lease). If any deductions are made, the landlord must return the balance along with a statement that includes an itemized listing of the deductions with supporting documentation and receipts, signed by the landlord under “penalty of perjury.” This must also be completed within 30 days of your moving out. If a landlord has failed to return your security deposit or has not given a complete list of damages s/he is deducting from your deposit within 30 days of your moving out, you can sue him/her for three times damages plus legal costs. You can also sue if the money for the security deposit was not held in a separate account. Before you file suit you will need to send the landlord a “Demand Letter” requesting the immediate return of your security deposit.

**Interest:** The landlord must pay interest on both the security deposit and the last month’s rent. The interest is the amount paid by the bank holding the money or 5%, whichever is less. Interest is payable to you on the anniversary date of your tenancy or upon termination of your tenancy – whichever comes first. The landlord must send you a statement of the interest owed, and must either include the interest, or allow you to deduct the amount from the next rental payment. If you do not receive the interest within 30 days of the anniversary, then you may deduct it from the next month’s rent. Once you terminate tenancy, any interest owed to you must be paid within 30 days of termination. If you do not receive the interest within the 30 days, you may sue the landlord for triple damages plus legal costs.

**If the building is sold:** If your building is sold to a new owner, the old landlord is required to transfer the security deposit and last month’s rent to the new landlord. Until the tenant is given notice, the previous landlord is responsible for the deposits or payments. If the monies are not turned over to the new landlord, the tenant may sue the previous landlord for triple damages plus legal costs.

**Damage Deduction for Security Deposits:** The landlord must return your security deposit or balance within 30 days after the termination of tenancy. The landlord can only deduct for the following:

- Any unpaid rent which has not been withheld validly or deducted in accordance with the law
- Any unpaid increase in real estate taxes if you were obligated to pay it under a valid tax escalator clause in your lease
- A reasonable amount necessary to repair any damage caused by you, any person under your control or any person on the premises with your consent. Pet damage can also be deducted.

You do not have to pay for reasonable wear and tear associated with normal use

# 11. CHECKLISTS

## Moving In

### Questions to ask

What utilities are included in the rent?  heat  electricity  hot water  gas

When will the apartment be available?

Is there a tenant in the apartment now? If so, when will she be moving out?

Does the apartment have any lead paint in it or has it been inspected for lead paint?

(This is important if you are pregnant or have any children under the age of six.)

If you have a car, what are the parking arrangements?

### THINGS TO CHECK OUT AS YOU WALK AROUND

Turn on all the faucets in the bathroom and kitchen all the way (including the shower and the bathtub). Is there hot and cold water? How is the pressure? Is the water discolored? Do the drains work properly?

Is there a refrigerator? (Note: Landlords are not required by law to provide refrigerators. But if they do, they must keep them in good condition.)

Flush the toilet. Does it work? Does it fill up properly?

Flip the light switches and see if the lights go on. Are there at least two electrical outlets or one electrical outlet and a light fixture in each room?

Are there any exposed wires?

Are the windows weathertight? Do they open and close? Do they have screens?

Are the floors, walls and ceilings in good condition? Any cracks, holes or signs of leaking?

Are there at least two exits? Are they blocked in any way?

If the apartment is above the first floor, are there fire escapes?

Is there a smoke detector?

Are there locks on the outside doors and windows? Do they work?

Is there a mailbox?

If it's heating season (Sept. 15 – June 15) does the heat work? Can you control the heat?

Is there a common entrance? Does it have a proper lock? Is there good lighting?

## **Moving Out**

When you move out, here are some practical things to keep in mind that may help prevent problems and misunderstandings between you and your landlord down the road.

1. Make sure your landlord gets your key.
2. Leave the apartment in clean condition. Remember, a new tenant will be moving in after you.
3. Review any statement of condition that you signed or may have sent the landlord when you first gave her a security deposit.
4. If you are concerned that your landlord may charge you for certain conditions that existed before you moved in, you may want to walk around the apartment with the landlord and remind her of the conditions that existed before you moved in.
5. Before you close the door for the last time, take pictures of the condition of your apartment and date them. This will protect you if your landlord keeps your security deposit.
6. Leave a forwarding address or make arrangements for picking up your security deposit and any interest you are owed.

## **12. TENANT RESPONSIBILITIES**

### **YOUR RESPONSIBILITIES:**

**RENT:** Pay on the scheduled date. If you cannot pay, notify your landlord and explain why and when you will be able to pay. DO NOT PAY IN CASH!

**NORMAL WEAR AND TEAR:** Your landlord expects some wear and tear on the apartment from normal use. Major accidents or damage caused by you should be reported right away. Your landlord may require you to pay for the damage.

**CODE VIOLATIONS / PROBLEMS:** Give your landlord a chance to fix problems as soon as you discover them. Most times they will respond quickly.

**NOISE:** Your landlord and your neighbors will appreciate your keeping noise (including televisions, radios and children) to a minimum.

**OTHER COMMUNITY STANDARDS:** Every building and street have rules that may be particular to that area. You probably want to try to honor those standards so that you can get along with your neighbors. Such “rules” may include: parking, vehicle repairs, trash, public stairways, storage.

**REPAIRS:** If you break something you should arrange for its repair or notify your landlord and be prepared to pay for it. If the damage is from normal wear and tear then you should notify the landlord and ask him/her to repair it.

**UTILITIES:** Make sure you are clear who is paying for what. Consult the “Utility Chart” on the following page to see who is responsible for what utilities.

Water	Your landlord. If he follows certain requirements, you may be billed directly for water. (see pg. 9)
Fuel for hot water	Your landlord. Unless a written lease says otherwise.
Fuel for heat	Your landlord unless a written lease says otherwise.
Electricity	Your landlord. Unless there is a separate meter calculating your electric use.
Gas	Your landlord. Unless there is a separate meter calculating your gas use.

If you have billing disputes or concerns with your utilities you should:

- Notify the company in writing
- Notify the landlord
- Contact the Department of Public Utilities 1(800) 392-6066

### 13. DISCRIMINATION

Housing discrimination is illegal under both federal and state law. It is illegal for someone to discriminate against you based on your

- |                    |                |                     |            |
|--------------------|----------------|---------------------|------------|
| Race               | color          | national origin     | sex        |
| Sexual orientation | marital status | religion            | disability |
| Source of in come  | rent subsidy   | status as a veteran |            |

Some examples of discrimination:

- “I don’t rent to families with children.”
- “The owner doesn’t accept people with Section 8.”
- “We have lead paint and it would be too dangerous for you and your baby here.”
- “The owner prefers married couples.”
- “No, we don’t have anything available in that particular neighborhood that’s at your price.”

The law does allow landlords of two family buildings to be more “selective” but they still cannot use discriminatory advertising or discriminate against children.

If you feel you have been discriminated against, you may file a complaint:

- Massachusetts Commission Against Discrimination: 617-727-3990
- Fair Housing Center of Greater Boston: 617-399-0491
- Housing and Urban Development Fair Housing Discrimination Hotline: 1-800-669-9777

## 14. LEAD PAINT

Lead poisoning is very dangerous, especially to young children and pregnant women. Massachusetts law requires that every house or apartment where a child under the age of six lives be made safe from lead. It is illegal for a landlord to refuse to rent to a family because there is lead on the premises if the family has a child under the age of six. Lead poisoning is caused by eating or breathing in lead. Lead poisoning can cause learning disabilities, impaired hearing, reduced attention span, hyperactivity and possible permanent permanent damage to the brain, nervous system and other organs. The most common source of the lead that poisons children is house paint such as peeling or cracking paint on doors, windows and wood trim. NEVER use a vacuum to clean up paint chips as this may put lead paint in the air. Use a wet cloth or sponge.

To find out if your apartment has lead you may contact the local health department which will arrange for an inspection. If they find lead they will order the landlord to remove the lead. You may have to move temporarily during this process. In the event of a lead paint court case, the courts will usually order your landlord to pay for a place for you to stay. However, you should carefully consider your options before proceeding with an inspection. The best option is to avoid apartments that may have lead paint.

## 15. WHAT TENANTS IN FORECLOSED BUILDINGS SHOULD KNOW

- It can be scary when your landlord loses his or her building to foreclosure, but don't panic. This does not mean that you have to start packing up your belongings and getting ready to move.
- Only a judge can evict you. You have the right to stay in your apartment until that happens and to raise defenses and claims in court against the new owner. If you lose the eviction case, you can also request up to six months (or up to 12 months if someone in your household is 60 years of age or older or has a disability) from a judge before you have to move.
- Someone may offer you "cash for keys"; asking you to move out very quickly in exchange for money. That person may try to convince you that you have no choice, but that isn't true. You don't have to take the deal. If you do, you may be giving up your legal rights and moving much sooner than necessary.
- Even if the bank sells the building with the provision that it be delivered free of tenants, that is not your problem, and does not affect your right to stay in your home and defend against eviction until a judge tells you that you must leave.
- Being in a foreclosed building does not, by itself, entitle you to withhold rent. If a bank takes over and doesn't want to accept your rent, keep a record of your offer to pay.
- Even if a bank takes over the building, they are still legally responsible for maintaining it. If you're having problems with repairs or services that the owner is supposed to provide (like utilities), you should contact the bank or its broker or attorney, preferably in writing, and let them know what is needed.
- The new owners of the building are legally required to post their names and addresses in the building. You can also find the owner through a "Property Search" at the Registry of Deeds in person or online.
- If you are being evicted in court, it is a good idea to seek legal assistance as soon as possible. For those who are low-income and eligible for free legal services, there are agencies that may be able to help.
- If utilities that the owner was supposed to provide (like water, or common area lights, or heat or hot water)

have been shut off or are threatened with shut-off, let the bank or the broker know, and also call the Inspectional Services Department. You may be able to keep service on by paying a projected bill, and can deduct these payments from any rent due. You may also be able to get an order from the Boston Housing Court ordering the bank to pay the utilities.

- If you have a rental subsidy, let the subsidy agency know about the change in ownership, so that they stop paying the old owner. You should have additional eviction rights because of your subsidy.
- In the event that you have to move out, the Rental Housing Resource Center can refer you to an affiliated agency that can offer you housing counseling.

## 16. RESOURCES

**Produced by** Massachusetts Law Reform Institute

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### **Boston College Legal Assistance Bureau - BCLAB/Waltham**

Director: **Alan Minuskin**

24 Crescent Street, Suite 202

Waltham, MA 024534088

Main Phone: **781-893-4793**

TTY: 781-736-9006

### **Greater Boston Legal Services**

Offices in Boston and Cambridge

800-323-3205

<http://gbls.org/immigration/index.htm>

**The Metro Boston Housing Partnership** (MBHP) administers the Section 8 voucher program (which pays the landlord the difference between the rent and what the voucher-holding tenant can afford). MBHP maintains the waiting lists for the vouchers and for other subsidized housing programs. People often wait years to get assistance. It is worth your while to get on the list as soon as possible.

The Consumer Resource Line is 617-425-6700.

Web Address: <http://mbhp.org/pages.asp?=61&c=24>

**The MetroList**, which is run by the City of Boston, is another resource for affordable rental units: MetroList is located on the ninth floor, room 966-A, of Boston City Hall at Government Center and is open for business Monday through Friday, 9:00am to 4:00pm. MetroList is a free service. The phone number to the clearing center is 617-635-3321.

Fax: 781-893-4799

**Public housing** (also known as “the projects”) is owned by local housing authorities. Qualifying tenants pay 30% of their income for rent. Most public housing has a strong local preference, which means that people who already live in the community have a much better chance of getting a unit than “outsiders”. For this reason, people should be referred to the housing authority where they currently live:

Arlington Housing Authority is open Monday thru Friday between the hours of 9:00 AM to 4:30 PM except for holidays. The offices are located on the second floor of the Winslow Towers Building at 4 Winslow Street, near the intersection of Massachusetts Avenue and Pleasant Street in Arlington Center.

Cambridge Housing Authority  
675 Massachusetts Avenue  
Cambridge, MA 02139  
617 864 3020

Watertown Housing Authority  
55 Waverly Avenue  
617-923-3950  
Monday - Friday  
8:30 a.m. - 4:30 p.m.

Waltham Housing Authority  
110 Pond St. Waltham, MA 02451  
Tel. No. 781-894-3357  
Fax No. 781-894-7595  
Business hours : Mon-Fri

You can find a list of other Housing Authorities at the State's website:

<http://www.mass.gov/dhcd/publications/howto.htm#LHAs>

Look under Contact Listings

**The Fair Housing Center of Greater Boston** investigates cases of housing discrimination (both rental and homeownership) and provides legal advocacy.

617-399-0491

<http://www.bostonfairhousing.org>

**The Waltham Alliance to Create Housing** (WATCH) can help resolve tenant-landlord disputes.

781-891-6689

517 Moody Street, Waltham, MA. 02453

<http://www.watchcdc.org>

**Community Dispute Settlement Center, Inc.**

CDSC is a private, not for profit mediation and training center dedicated to providing an alternative and affordable forum for resolving conflict.

60 Gore Street, Suite 202

Cambridge, MA 02141-1236

617-876-5376

**ABCD, Inc.**

Action for Boston Community Development, Inc.

178 Tremont Street

Boston MA 02111

(617) 357-6000

**Fuel Assistance** - (617) 357-6012

Fuel subsidy payments for eligible low income tenants

**Weatherization** - (617) 357-000 X 419

Provides house inspection and weatherization services.

**ABCD Housing Department**

105 Chauncy Street  
Boston 02111  
357-6000 X 347

Provides information on tenant /landlord rights and responsibilities. Mediation and referral. Housing search, placement and stabilization for low income families and individuals who are homeless or at-risk of homelessness. Includes subsidy and market rate search.

**Attorney General's Office**

One Ashburton Place  
Boston MA 02108  
(617) 727-2200

For complaints about unfair Realtor practices.

**Boston Fair Housing Commission**

City Hall, Room 966  
Boston MA 02201  
(617) 635-4408

Investigates and can file charges in cases of discrimination because of race, gender, marital status, or because a potential tenant has children.

**Boston Housing Authority (BHA)**

52 Chauncy St.  
Boston MA 02111  
(617) 988-4000

Administers and manages public housing, section 8 certificates and MRVP rental subsidy programs.

**Childhood Lead Poisoning Prevention Program**

470 Atlantic Avenue  
Boston MA 02210  
(617) 753-8400

Performs screening tests for lead poisoning, inspection services and information and referral about tenant's rights and low interest funds for lead abatement.

**Department of Neighborhood Development (DND) (Formerly PFD)**

26 Court Street  
Boston MA 02108

Offers financial and technical assistance to low and moderate income landlords and developers of multi-unit dwellings. Offers subsidies to eligible tenants in some situations.

**Division of Housing and Community Development (DHCD)**

100 Cambridge Street  
Boston MA 02108  
(617) 717-7765

Administers non-profit Regional Housing Authorities throughout the state.

*Division of Consumer Affairs* provides information and referral about tenant and landlord rights.

**Greater Boston Legal Services (GBLS)**

197 Friend Street  
Boston MA 02114  
(617) 371-1270

Provides legal assistance and referral to low income eligible clients in landlord/tenant disputes and evictions. Call to check for geographic income and guidelines.

**Housing and Urban Development (HUD)**

10 Causeway Street  
Boston MA 02222  
(617) 565-5126

Provides federal subsidies for rental housing. Will send out a list of all HUD subsidized units throughout the state.

**Inspectional Services Department (ISD)**

1010 Mass. Ave.  
Boston MA 02118  
(617) 635-5322

Will make home inspections for suspected violations of the State Sanitary Code, including no heat. Can write up violations, and summon landlord to court.

**Massachusetts Coalition for the Homeless**

288 A Street  
Boston MA 02210  
(617) 737-3508

Provides information and referral on resources for homeless people. Also provides furniture (by referral) for formerly homeless people moving into housing.

**Massachusetts Commission Against Discrimination (MCAD)**

One Ashburton Place Room 601  
Boston MA 02108  
(617) 727-3990

Deals with discrimination cases for Massachusetts residents. (Boston residents should call the Boston Fair Housing Commission).

**Massachusetts Housing and Finance Agency (MHFA)**

One Beacon Street, 29th Floor  
Boston MA 02108  
854-1000

A state agency that provides funding for multi-family housing, low-interest mortgage loans for qualified buyers. The MHFA Housing List is a free 78 page listing of all privately owned state subsidized housing throughout the state.

**Massachusetts Law Reform Institute**

99 Chauncy Street  
Boston MA 02111  
(617) 357-0700

Provides information and referrals regarding pro-bono lawyers for low-income tenants.

**Mayor's Hotline for 24 Hour Constituent Services**

Boston City Hall  
Boston MA 02201  
(617) 635-4500

Information, referral and advocacy for tenants who have no heat as a result of landlord negligence.

**Rental Housing Resource Center**

City Hall Room 709  
Boston MA 02108  
635-4700

Information, mediation and advocacy for tenants, especially those who were formerly housed in rent controlled apartments.

**Volunteer Lawyers Project of the Boston Bar Association**

29 Temple Place  
Boston MA 02111  
423-0648

Assists low income, elderly, disabled residents of the Boston area with civil legal matters.