

# TENANT'S RIGHTS



## EVICCTIONS

This pamphlet describes your rights when facing eviction. The Virginia Residential Landlord and Tenant Act ("VRLTA") protects most residential tenants from unlawful eviction. A landlord can evict you at the end of the lease, for not paying rent, or for breaking other lease terms.

**Terms of the lease:** A written lease is good for the length of time stated. This can be any length of time, like twelve months or six weeks. If there is no written lease, the VRLTA sets a 12-month term.

Some leases automatically renew. However, the landlord or the tenant can give advance written notice to end the

lease. Please check your lease carefully for its renewal clause.

**Termination of the lease by landlord:** A landlord can end a month-to-month lease with a 30-day written notice before the next rental due date. So if your lease begins on the 1st of the month, you must receive written notice by July 31st for the lease to end on August 31. Please check your lease carefully for its termination clause.

Generally, a lease may not be ended in the middle of a term. However, it may if there is a violation of the lease or both parties agree to end the lease. Under certain conditions, military personnel and victims of family abuse, sexual abuse, or criminal sexual assault can end a lease early.

**Nonpayment of rent:** If you are late paying rent, the landlord should send a five-day "pay-or-quit" notice. It states how much is owed, and that if rent is not paid within five days, the landlord may begin eviction proceedings. This notice must be in writing.

**Other lease violations:** Generally, you cannot be evicted if you have paid your rent and the lease has not ended. However, your landlord can evict you for a substantial violation of the lease or other legal obligations. For example, playing loud music and disturbing other tenants, or failing to keep the home clean and safe are violations.

If the violation can be corrected, the landlord must send a written "21/30" termination notice stating 1) what the violation is, 2) that it must be corrected within at least 21 days, and 3) if the problem is not corrected, the lease will end in 30 days.

For example, a landlord notifies a tenant on July 1 to remove an unauthorized pet by July 22 or the lease will end on July 31. If the pet is still there on July 22, the lease ends on July 31.

If correction of the violation is not possible, the landlord must send a written notice stating 1) what the violation is and 2) that the lease will end in 30 days.

If the violation is willful or criminal and affects the health or safety of others, the landlord can end the lease immediately.

**Waiver by acceptance of rent:** If a landlord knows the tenant violated the lease but still accepts rent, the landlord waives the right to terminate the lease for that violation. However, a landlord can reserve that right in a written notice and still accept payment.

**Unlawful Detainer:** The court action to evict is called an "unlawful detainer." This is where a landlord seeks possession of the home and any money owed as a judgment. Before filing an unlawful detainer, the landlord must give you a "Statement of Tenant's Rights and Responsibilities." Then, one of four conditions must be met:

- 1) The lease has ended without renewal;
- 2) The rent is still unpaid 5 days after a 5-day notice was received;
- 3) A violation of the lease was not corrected within 21 days of a 21/30 notice, or cannot be corrected after a 30-day notice; or
- 4) The tenant, a guest, or someone residing in the home willfully violates the lease in a way that cannot be fixed and affects the health or safety of others.

If none of these conditions exist, the landlord cannot evict you from the home.

**Redeeming your tenancy:** If an unlawful detainer is based only on nonpayment of rent, a tenant can redeem and have the lawsuit dismissed. This requires paying all rent, late fees, damages, court costs, and attorney's fees. If the landlord has four or fewer rentals, a tenant may use this right once in a 12-month period.

**Postponing the case:** In some courts, when a tenant has a defense to the eviction, the trial can be postponed to a "contested date." You will need to tell the judge what the defense will be. If the judge thinks it is not a "good faith defense," you may be asked to pay the rent due to the court in exchange for the postponement.

**Trial:** In court, both landlord and tenant can present evidence on whether the tenant should be evicted. If the judge thinks that the landlord can evict the

tenant, the landlord is awarded possession.

If the landlord also sued for rent and damages, a money judgment may be awarded.

**Writ of possession:** If awarded possession, the landlord will ask the court clerk to issue a "writ of eviction." This permits the sheriff to remove the tenants and possessions from the home. Even if the landlord asks for immediate possession, you cannot be evicted until the 10-day appeal period after judgment passes. Also, the sheriff must put an eviction notice on the door at least 72 hours before the eviction.

If the landlord gets possession, you can still redeem up to 48 hours before the sheriff's eviction. You must pay all rent, late fees, damages, court costs, and sheriff and attorney's fees. Redemption stops the eviction. You should ask your landlord how much you owe to redeem.

Neither the landlord nor the sheriff must protect your possessions after you are evicted from the home.

**Illegal evictions:** State law prohibits the landlord from:

- Locking the tenant out of the home or removing belongings without a court order;
- Purposely stopping essential services such as heat, water, gas, or electricity; and
- Evicting because the tenant complained to local inspectors about

conditions, organized or joined a tenants' organization, or sued or testified against the landlord.

If the landlord locks the tenant out or stops essential services, the tenant can file an unlawful exclusion. This allows a tenant to reenter the home or terminate the lease. Either way, the tenant can recover actual damages, \$5,000 or four months' rent (whichever is greater), and attorney fees.

**Expungement of unlawful detainers:** Some unlawful detainers result in a dismissal or a nonsuit. If the landlord waits too long to refile it, the unlawful detainer can be expunged.

*This pamphlet contains general information about your rights, but if you have a specific question, consult your lawyer. If you cannot afford a lawyer, consult:*

*Legal Aid Society of Roanoke Valley  
David D. Beidler, General Counsel  
132 Campbell Avenue SW, Suite 200  
Roanoke, VA 24011-1206*

*For appointment call  
Blue Ridge Legal Services, Inc.  
(540) 344-2080 or apply online at  
[www.lasrv.org](http://www.lasrv.org)*

*For information on Virginia law and court forms check the web at [www.valegalaid.org](http://www.valegalaid.org) or call toll-free 1-866-534-5243*

