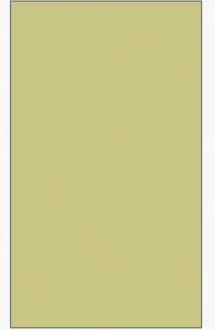


CARNEGIE MELLON
UNIVERSITY

AUGUST 19, 2020

LANDLORD / TENANT LAW



INTRODUCTION

The information contained in these slides and made available during the presentation are for educational purposes only. If you have legal concerns that you would like to discuss, please visit:

<https://www.cmu.edu/student-affairs/dean/student-legal-consultation/index.html>

Any information provided today should not be perceived as legal advice or the formation of an attorney-client privilege.

As of the Fall 2018 semester, Carnegie Mellon University has engaged private attorneys in order to provide legal consultations to its student body. In addition to facilitating direct meetings between student and lawyer, a series of presentations have been scheduled. This presentation is part of a series of Landlord/Tenant law.

We will begin by a brief overview of Landlord/Tenant law from the perspective of Contract Law and will review the relevant sections to watch for in a lease. With an emphasis on security deposits, we will then introduce the Pennsylvania Landlord-Tenant Act of 1951. Finally, we will briefly address the standards for terminating a lease early.

CMU LAW SCHOOL

CONTRACTS 101

- Three Elements of a Contract:
 - Offer
 - Ex. 1: "I will pay you if you paint my house."
 - Ex. 2: "I will give you shelter if you pay rent."
 - Ex. 3: "I will fix your car if you bake me a cake."
 - Acceptance:
 - "I agree."
 - Consideration:
 - Ex. 1: Cash from Offeror, service provided by Offeree
 - Ex. 2: Goods/Service from Offeror, cash from Offeree
 - Ex. 3: Services from both

RELEVANT SECTIONS OF A LEASE

- It is surprising that when many students sit down to discuss Landlord/Tenant matters they already have all their answers in black and white in front of them. While there are many rules about what constitutes a contract, as long as the formation and content is morally and ethically sound, the terms of the lease apply and control. Here are some common terms that everyone should know about their lease.

- PARTIES
- LENGTH OF TENANCY
- SECURITY DEPOSIT / LAST MONTH
- RENT
- UTILITIES
- REPAIR / MAINTENANCE
- TERMINATION OF LEASE

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Residency and Financials

1.1 RESIDENTIAL LEASE AGREEMENT

Rent can be paid through your online portal or sent to [REDACTED]

THIS LEASE (the "Lease") dated [REDACTED] BETWEEN:

[REDACTED] (The "Landlord")

-AND-

[REDACTED] (The "Tenant(s)")

IN CONSIDERATION OF the Landlord leasing certain premises to the Tenant, the Tenant leasing those premises from the Landlord and the mutual benefits and obligations provided in this Lease, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Lease agree as follows:

1.2 LEASED PREMISES AND OCCUPANCY REQUIREMENTS.

The Landlord agrees to rent to the Tenant the property, municipally described as:

[REDACTED]
Pittsburgh, PA 15210

(The "Property"), for use as a residential premises and as further specified below:

- Apartment
 Condominium
 Single Family Home
 Townhouse
 Other

1. Neither the Property nor any part of the Property will be used at any time during the term of this Lease by Tenant for the purpose of carrying on any business, profession, or trade of any kind, or for the purpose other than as a private single-family residence.
2. In the event that Landlord, within its discretion, chooses to accept from any individual or potential Tenant(s) an amount in addition to or in excess of the standard, requisite, applicable and non-refundable \$30.00 initial application fee, for the express purpose of "holding" or "reserving" the premises, it is understood by all parties that such payment amount shall be deemed non-refundable in the event that any such individual and/or potential Tenant(s) no longer desires to lease the premises and under no circumstances will be returned to the individual and/or potential Tenant(s) for any reason but may be applied toward the total amount of security deposit plus first month's rent due and required prior to or contemporaneous with the execution of this lease agreement and actual commencement of the lease term. The Landlord

reserves the right to charge an annual \$15.00 implementation fee per unit, such payment will be deemed non-refundable.

3. Landlord may in its discretion choose to terminate this Lease Agreement immediately if it is discovered that Tenant(s) was misrepresented on his/her (their actual rental application).
4. Landlord will provide to Tenant(s) upon the commencement of the lease one set of keys to the Property. If Tenant(s) misplaces keys or is locked out of his/her/their unit, the keys must be replaced and if Landlord is contacted to assist Tenant(s) in gaining entry to the Property, Tenant(s) will be charged a fee for such in the amount of \$75.00 for each service during regular business hours of 9am-5pm, Monday - Friday. If the service is outside of those regular business hours, and the Landlord is contacted for such, the fee will be \$125.00. The Tenant has the option, and it is in fact recommended by the Landlord in a case outside of regular business hours, of contacting a local or mobile locksmith directly and submitting payment directly to any such service provider. If the Tenant(s) in fact chooses to use a local or mobile locksmith then the Landlord must be provided with one (1) new key immediately.
5. Under no circumstances can more than three unrelated adult individuals reside within the Property at any one time.
6. No guests of the Tenant(s) may occupy the Property for longer than one week without the prior written consent of the Landlord which may be unreasonably withheld.
7. Any unauthorized individuals found to be residing within the Property may result in the Landlord choosing to terminate this lease within thirty (30) days without notice or, the Landlord agreeing to continue the lease in exchange for Tenant(s) agreeing to pay the sum of one hundred and seventy five dollars (\$175.00) per month per each unauthorized individual, and/or the Landlord requiring the Tenant(s) to pay for all damages caused by any unauthorized individuals.
8. Tenant will be responsible for any and all fines incurred by Landlord because of any violation.
9. Landlord is not responsible for any loss, theft, damage, liability or injury to any person including Tenant(s) and/or Tenant(s) guests while within or upon the property.
10. Tenant(s) agrees and acknowledges that the Property has been designated as a smoke-free living environment. The Tenant(s) and members of Tenant's household neither will smoke anywhere in the Property nor will permit any guests and/or visitors to smoke within the Property. Tenant(s) also will be charged for any painting and/or cleaning that may be necessary in any part or area of the Property because of discolor and/or odor caused by cigarette, pipe and/or pipe smoking.
11. No pets and/or animals are allowed to be kept in or about the Property without the prior written permission of the Landlord and payment of a pet deposit equal to one month rental amount and compliance with all other terms and conditions regarding such permission to any and all applicable sections of this Lease Agreement. Upon thirty (30) day's notice, the Landlord may revoke any consent previously given

Residency and Financials

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-AND-

[REDACTED] [REDACTED] (The "Tenant(s)")

IN CONSIDERATION OF the Landlord leasing certain premises to the Tenant, the Tenant leasing those premises from the Landlord and the mutual benefits and obligations provided in this Lease, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Lease agree as follows:

1.3 INITIAL TERM, RENEWAL AND TERMINATION:

- 1. The term of the Lease commences at 2pm on 05/15/2017 and ends at 12pm on 04/30/2018 .**

1.5 RENT AND ADDITIONAL AMOUNTS/LATE FEES DUE:

Subject to the provisions of this Lease, the rental amount for the Property is \$ \$1,200.00 per month (the "Rent") and is also subject to the following terms and conditions:

1. **The total amount for the term of the lease is \$ 13,858.06 .**
2. The Rent is due on the 1st of the month.
3. If Rent is received late between the 3rd and the 10th of the month, a late fee in the amount of \$75.00 is applicable. If Rent is received late on any date after the 10th of the month, a late fee in the amount of \$100.00 is applicable.

1.6 SECURITY DEPOSIT AND ADDITIONAL DEPOSIT/MONIES APPLICABLE:

1. Upon signing of this agreement, the Tenant(s) agrees to pay to Landlord a Security Deposit in the amount of \$1,200.00 plus First Month Rent in the amount of \$1,200.00 and Last Month Rent in the amount of \$—.
1. The Landlord will hold the Security Deposit in a separate escrow account located at Citizen's Bank Pittsburgh, Pennsylvania 15203 and solely devoted to security deposits.

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Responsibilities

3.1 UTILITIES AND OTHER CHARGES:

The Tenant(s) is responsible for the payment of all utilities indicated below pursuant to and in accordance with the following terms and conditions:

- Gas
- Electric
- Water/Sewage/Refuse
- Other

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General Clauses

4.1 LANDLORD'S RIGHTS IN THE EVENT OF TENANT(S) BREACH AND/OR VIOLATION OF LEASE.

If Tenant(s) breaches and/or violates this lease agreement, Landlord has the right to any one or combination of the following remedies and/or courses of action:

1. Terminate this entire lease agreement;
2. Commence with formal recovery or possession proceedings in an applicable court of law;
3. Obtain legal counsel and/or an attorney in order to commence formal court eviction proceedings and Tenant(s) also agrees to pay Landlord all attorney's fees and court costs;
4. Commence formal eviction action without the assistance of legal counsel and/or an attorney and Tenant(s) agrees to pay Landlord the sum of one hundred dollars (\$100.00) as collection costs if Landlord takes Tenant(s) to court;
5. Commence formal court proceedings to recover rent, utilities and/or any other additional charges that are due or may be due in the future in conjunction with and for the duration of the initial and current lease term; and/or,
6. When Landlord succeeds in court or obtaining judgment, the Landlord also may choose to utilize any formal enforcement and/or execution procedures in order to obtain personal goods, motor vehicles, garnishment of wages and/or funds within money within checking or savings accounts of Tenant(s) in order to satisfy the applicable order or judgement.

4.2 TENANT(S) DESIRING TO VACATE PRIOR TO EXPIRATION OF LEASE TERM.

If Tenant(s) desires to vacate the property and terminate this lease prior to the valid and applicable end date, Tenant(s) is required to comply with the following terms and conditions:

4.3 TENANT(S) RESPONSIBILITIES FOR BREACH, VIOLATION AND/OR FORFEITURE OF LEASE AGREEMENT.

If lease is broken, breached, violated and/or forfeited by Tenant(s), the Tenant(s) owes to the Landlord:

1. All rent, utilities and/or any other additional charges required or authorized pursuant to this lease;
2. All legal fees, court costs, collection, agency fees, sheriff's or constable's fees, moving and storing cost, and/or any other expenses incurred by Landlord pursuant to or associated with the terms of this lease agreement;
3. The cost of repairing and replacing any damage to the leased property caused by the Tenant(s) or by guests of Tenant(s); and/or,
4. Any additional expenses Landlord incurs or suffers as a result of Tenant(s) breach, violation and/or forfeiture of this lease agreement.

4.12 JOINT AND SEVERAL LIABILITY.

Where there is more than one Tenant executing this Lease, all Tenants will be deemed jointly and severally liable for each other's acts, omissions and liabilities pursuant to this Lease.

4.15 NOTICES.

For any matter relating to this tenancy, the Tenant(s) may be contacted at the Property directly or through the information below with it being understood that Email will be the primary mode of communication.

For any matter relating to this tenancy, whether during or after this tenancy has been terminated, the Landlord's contact information is and Tenant(s) agrees to send all notices to Landlord in writing by certified mail:

Address:

[REDACTED]

Phone:

[REDACTED]

Email:

[REDACTED]

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Sign and Accept

6.1 SIGN AND ACCEPTANCE

TENANT(S) AGREES LANDLORD HAS PROVIDED THE OPPORTUNITY FOR TENANT(S) TO HAVE AMPLE TIME TO REVIEW THIS LEASE. IF LEASE TERMS ARE NOT UNDERSTOOD THEN TENANT(S) IS ENCOURAGED TO SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BY SIGNING THIS LEASE, EACH TENANT(S) AGREES HE OR SHE HAS READ AND DOES UNDERSTAND ALL OF THE REQUIREMENTS, TERMS AND CONDITIONS.

THIS LEASE PLUS ANY AND ALL ADDED CLAUSES, OR HOUSE RULES, IS THE EXCLUSIVE, FINAL AND COMPLETE AGREEMENT BETWEEN LANDLORD AND TENANT(S). ANY ORAL OR WRITTEN AGREEMENTS MADE PRIOR TO SIGNING THIS LEASE WHICH ARE NOT INCLUDED WITHIN THIS LEASE ARE EXPRESSLY EXCLUDED FROM PART OF THIS LEASE AGREEMENT.

IN WITNESS WHEREOF Tenant(s) and Landlord have duly affixed their signatures on this .

X [REDACTED]
Lessee IP Address: [REDACTED]
04/14/2017 04:31pm EDT

X [REDACTED]
Lessee IP Address: [REDACTED]
04/15/2017 02:17pm EDT

X [REDACTED]
Lessor IP Address: [REDACTED]
05/16/2017 11:25am EDT

LEASE PITFALLS

Termination of Lease

A typical residential lease terminates naturally after a year without additional efforts. However, there are two problems that students commonly encounter regarding the termination.

- The first is that they don't plan early enough in advance to extend their lease which often occurs six months in advance.
- The second is that they intend to terminate the lease but the paperwork requires advance notice.

Security Deposit

A landlord has thirty days from the termination of a lease to provide a written list of reductions from the security deposit and any amount remaining. There are two steps that I advise every tenant to take.

- Keys returned and a forwarding address must be provided to the landlord upon termination of the lease in writing.
- Photographic evidence of the condition of the leasehold premise to refute improperly withheld escrowed funds.

NATURAL CONCLUSION OF A LEASE AND RETURN OF SECURITY DEPOSIT

When a residential lease terminates by its own conditions detailed in the contract the most common legal issues encountered are in regard to the tenant's recovery of their security deposit. While the terms of the contract will control how and when the lease terminates, the rules for return of security deposit have been promulgated as law.

THE LANDLORD AND TENANT ACT OF 1951
68 P.S. §§250.512(a)-(f)

Ultimately, this section provides that a landlord has thirty days to return a security deposit or a detailed list of why the full amount was not returned. The section also specifies the legal recourse that may be taken if the landlord does not timely or properly return the security deposit.

§ 250.512. Recovery of improperly held escrow funds

(a) Every landlord shall within thirty days of termination of a lease or upon surrender and acceptance of the leasehold premises, whichever first occurs, provide a tenant with a written list of any damages to the leasehold premises for which the landlord claims the tenant is liable. Delivery of the list shall be accompanied by payment of the difference between any sum deposited in escrow, including any unpaid interest thereon, for the payment of damages to the leasehold premises and the actual amount of damages to the leasehold premises caused by the tenant. Nothing in this section shall preclude the landlord from refusing to return the escrow fund, including any unpaid interest thereon, for nonpayment of rent or for the breach of any other condition in the lease by the tenant.

(b) Any landlord who fails to provide a written list within thirty days as required in subsection (a), above, shall forfeit all rights to withhold any portion of sums held in escrow, including any unpaid interest thereon, or to bring suit against the tenant for damages to the leasehold premises.

(c) If the landlord fails to pay the tenant the difference between the sum deposited, including any unpaid interest thereon, and the actual damages to the leasehold premises caused by the tenant within thirty days after termination of the lease or surrender and acceptance of the leasehold premises, the landlord shall be liable in assumpsit to double the amount by which the sum deposited in escrow, including any unpaid interest thereon, exceeds the actual damages to the leasehold premises caused by the tenant as determined by any court of record or court not of record having jurisdiction in civil actions at law. The burden of proof of actual damages caused by the tenant to the leasehold premises shall be on the landlord.

(d) Any attempted waiver of this section by a tenant by contract or otherwise shall be void and unenforceable.

(e) Failure of the tenant to provide the landlord with his new address in writing upon termination of the lease or upon surrender and acceptance of the leasehold premises shall relieve the landlord from any liability under this section.

(f) This section shall apply only to residential leaseholds and not to commercial leaseholds.

EARLY TERMINATION OF A LEASE

There are three ways that a lease may be terminated early with minimal liability.

- Breach of Contract

Within the four corners of the lease itself are the rules that the parties have agreed to. If a material breach by the landlord were to occur, there would be grounds to argue that the contract itself is no longer valid. If a material breach by the tenant occurs, they are typically liable for the remainder of the lease term for rent.

- Efficient Breach

A voluntary breach by a tenant in a manner that benefits everyone.

- Constructive Eviction

Breach of the Implied Warranty of Habitability
Pugh v. Holmes, 405 A.2d 897 (Pa. 1979)

BREACH OF CONTRACT

Material Breach

- Breach of a major point of the Lease
 - By Landlord: Usually uninhabitable property, broken plumbing or electrical, or failure to give the property to the Tenant
 - By Tenant: Nonpayment of rent, major damage to property
- Remedies:
 - Breach by Landlord: Tenant can withhold rent, move out without penalty, and cancellation of the Lease
 - Breach by Tenant: Eviction, collection

Limited Breach

- Breach of a minor point in the Lease
 - Examples by Landlord: Leaky faucet, broken light fixture, drafty rooms
 - Examples by Tenant: Normal wear-and-tear, rent paid a day late
- Remedies:
 - Breach by Landlord: Possibly withhold rent until fixed, some fixes are required to be made by Tenant (if under a certain dollar amount). Does NOT reach the level of waived rent or breaking of lease without penalty
 - Breach by Tenant: Landlord can bill Tenants for damages

EFFICIENT BREACH

In law and economics there exists the theory of Efficient Breach. While the theory necessarily employs the breach of contract which as discussed above the policy and principles embodied in this theory are so valuable as to warrant their own discussion.

The theory works as follows:

Imagine I have a baseball bat. If you were to go to a store to purchase that bat, it would cost you \$50, but I am willing to sell you mine for \$40. We agree that you will buy it for \$40. You are saving \$10 from what you would have to pay at the baseball bat store. Before you give me the money, a baseball player comes up to me and says, "I heard that you have a baseball bat to sell. I am late for my game and I need that bat. I will give you \$60 for it." If I accept the \$60, I have breached my contract with you.

The idea of efficient breach is that by breaking the contract with you I am improving the economy and benefiting 4 people by doing so. The baseball player is benefited because he needed a bat and he got one. You are benefited because you wanted a baseball bat for \$40, and when I give you \$10 you will have the money to go to the store and purchase one. I benefit because I am able to sell my bat for extra money. The store benefits because they now get an extra customer they would not have had.

Not all breaches are bad. If everybody is able to get what they want, a breach can be good. We call that an efficient breach.

CONSTRUCTIVE EVICTION

There are two ways that a landlord can constructively evict a tenant. The first is by imposing limitations on the tenant's quiet enjoyment of the property. The second is by not taking actions which permit the deterioration and decay of the property so much that it interferes with the quiet enjoyment of the property. For example, if a landlord hires a construction company to do renovations to your apartment and that takes up the space in your apartment for 6 months, you will not be able to use your apartment for that time period and the landlord has constructively evicted you. On the other, consider that after moving in you discover that the water is polluted. You notified the landlord and he refused to fix it. You notify Allegheny County Code Enforcement. They inspect, agree that the water is polluted and order the landlord to fix the problem, but he still refuses.

In either of these situations, the landlord is said to have breached the implied warranty of habitability. Under these extreme circumstances, you may be entitled to terminate the lease agreement. The landlord might even owe you money to help you move.

QUESTIONS?

This general overview I presented today should not be construed as legal advice as it pertains to your personal situation. If you are dealing with these issues, or any other, please see an attorney.

For questions pertaining to immigration issues, you can also reach out to:

Linda Gentile, Director Of International Education

Email: lgentile@cmu.edu

On Campus: Posner Hall, Room 149D

Phone: (412) 268 5231