



LANDLORD TENANT LAW



WHAT IS LANDLORD TENANT LAW?



A QUICK HISTORY

- Relationship has roots in feudal society, landlord really was a lord.
- **18th-19th** century in America, often agricultural. Landlord tenant relationship is seen as property conveyance, term of years versus life estate.
- **1960s** judicial recognition that residential leases were predominately short term, urban, and the necessity of repair and maintenance by landlord resulted in implied warranty of habitability.
 - As matter of common law, courts recognized that residential landlord tenant relationship was contractual, mutual rights and responsibilities, landlord repairs and maintenance, tenant pays rent.
- In **1978**, Iowa adopts the Uniform Residential Landlord Tenant Act (Chapter 562A) and the Mobile Home Parks Residential Landlord and Tenant Act (Chapter 562B).
- In **1994**, legislation added manufacture homes and modular homes to the definition of “mobile homes” for purposes of 562B as long as those homes were located in a mobile home park.
- In **2001**, the General Assembly added manufactured home communities to 562B and amended the name of the Act to “Manufactured Home Communities or Mobile Home Parks Residential Landlord and Tenant Act.”

APPLICABILITY

- Chapter 562A governs the relationship of a landlord and tenant when that tenant is renting a dwelling unit pursuant to a written or oral rental agreement.
- Chapter 562B also governs the relationship of a landlord and tenant when the tenant is renting a mobile home space pursuant to a written or implied rental agreement.

TYPES OF TENANCIES

- Tenancy for a term
- Tenancy at will
- Periodic tendencies
 - Ex. Month to month tenancy

MOBILE HOMES VS. DWELLING UNITS

Chapters 562A and 562B have many analogous provisions and similar language; however, the two chapters apply to different, although sometimes overlapping, rental situations.

WHAT IS A RENTAL AGREEMENT?



- Creates the landlord and tenant relationship.
- A rental agreement under chapter 562A is defined as “means an agreement written or oral, and a valid rule, adopted under section 562A.18, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.”
- A rental agreement governed by chapter 562B is defined as an agreement “written or those implied by law, and valid rules and regulations adopted under section 562B.19 embodying the terms and conditions concerning the use and occupancy of a mobile home space.”

DEFAULT TERMS

Chapter 562A provides for:

- The calculation of the amount of rent
- The term of the rental agreement,
- Late fees
- The date and place of payment of rent

Chapter 562B provides for:

- Default provisions for the date of payment of rent
- The term of a rental agreement

MANDATORY TERMS IN CHAPTER 562B

- Rental agreements shall be for a term of one year unless otherwise specified.
- Must give 90 days notice to cancel agreement.
- Maximum late fee
- Cancellation procedure upon tenant's death
- Improvements purchased and installed by tenant remain the property of the tenant

PROHIBITED TERMS

A rental agreement shall not provide that landlord or tenant does any of the following:

- Waive rights or remedies provided under chapters 562A and 562B
- Agree to pay the other party's attorney fees
- Agree to exculpate or limit liability of the other party or indemnify the other party for that liability

UNCONSCIONABLE TERMS

A rental agreement may also be unenforceable if the court finds as a matter of law that a rental agreement or any provision thereof was unconscionable when made.

SUBLEASES

A rental agreement may be subleased.

TERMS OF TENANCY

Both chapters provide for a term of tenancy in the absence of a fixed term in the rental agreement.

LANDLORD OBLIGATIONS AND CONDUCT

- Security Deposit
- Delivery of Possession and Landlord Entry After Delivery
- Fit and Habitable Premises
- Liability
- Disclosure
- Written Rental Agreement
- Bailment
- Mobile Homes and The Park or Community
- Prohibition on Retaliatory Conduct
- Prohibition on Penalties for Summoning Emergency Assistance

SECURITY DEPOSIT

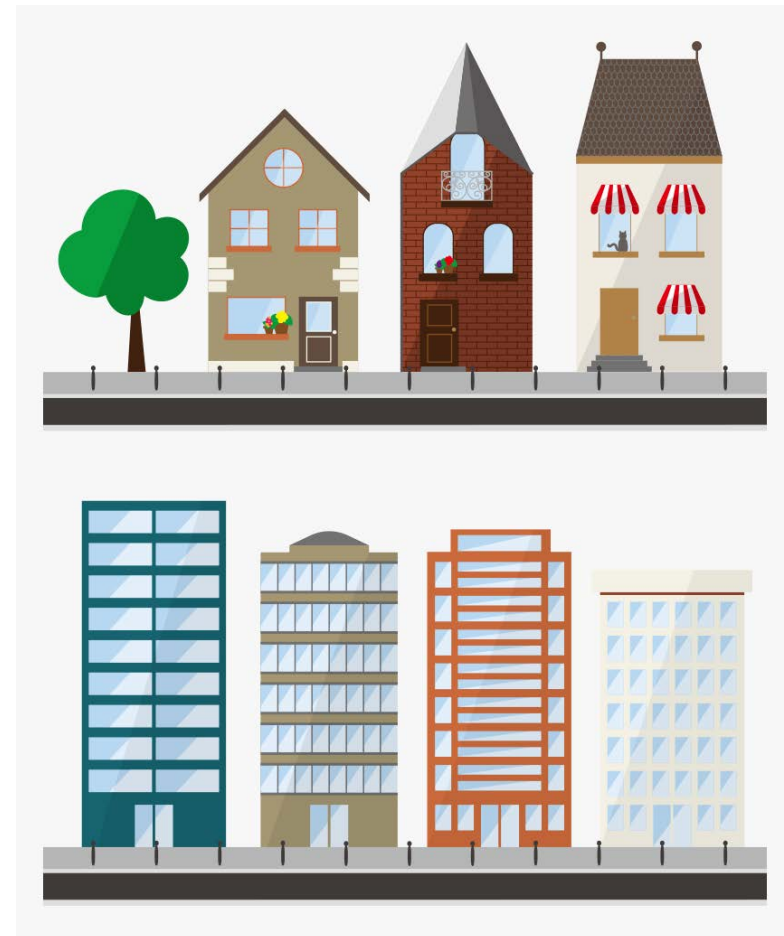
- The landlord may not commingle security deposits with the landlord's personal funds
- 30 days to either return the security deposit or send a written statement citing reasons for withholding whole or any portion of it
- The landlord is allowed to withhold any portion of the security deposit as is reasonably necessary to:
 - Remedy a tenant's default in payment of rent or other funds due to the landlord pursuant to the rental agreement.
 - Restore the dwelling unit or mobile home space, as the case may be, to its condition at the beginning of the tenancy, except for ordinary wear and tear.
 - In the case of the rental of a dwelling unit under chapter 562A, recover expenses incurred in acquiring possession of the premises from a tenant who does not act in good faith in failing to surrender and vacate the premises upon noncompliance with the rental agreement and notification of noncompliance.
 - In the matter of the renting of a mobile home or manufactured home space under chapter 562B, remove, store, and dispose of a manufactured or mobile home if it is abandoned.

DELIVER POSSESSION – LANDLORD ENTRY

- The landlord also has a duty to deliver possession of the dwelling unit or mobile home space to the tenant at the beginning of the tenancy term.
- A landlord may enter the dwelling unit or mobile home space in order to do the following:
 - Inspect the premises.
 - Make necessary or agreed repairs or improvements.
 - Supply necessary or agreed services.
 - Exhibit the dwelling unit or mobile home space to certain individuals.
- Under Chapter 562A, when not impracticable, the landlord shall provide the tenant at least 24 hours' notice of the intent to enter.

FIT AND HABITABLE PREMISES

- Dwelling unit requirements
- Mobile home space requirements
- Common law requirements



FIT AND HABITABLE PREMISES: DWELLING UNIT

A landlord is generally required to:

- Comply with the applicable building and housing codes materially affecting health and safety,
- Make all repairs and do what is necessary to put and keep the premises in a fit and habitable condition,
- Keep common areas safe and clean,
- Maintain electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances supplied or required to be supplied by the landlord,
- Provide and maintain accessible and appropriate garbage, ash, and other waste receptacles incidental to the occupancy of the dwelling unit and arrange for its removal,
- Supply running water and reasonable amounts of hot water at all times and reasonable heat

FIT AND HABITABLE PREMISES: MOBILE HOME

Chapter 562B requires the landlord to:

- Comply with the applicable state and local codes materially affecting health and safety which are primarily imposed upon the landlord
- Make all repairs and do what is necessary to put and keep the mobile home space in fit and habitable condition
- Keep common areas of the manufactured home community or mobile home park in a clean and safe condition
- Maintain all facilities supplied or required to be supplied by the landlord in a good and safe working order
- Provide for removal of garbage, rubbish, and other waste
- Furnish outlets for electric, water, and sewer services

FIT AND HABITABLE PREMISES: COMMON LAW

- Doctrine of implied warranty of habitability
 - To prove a breach of the implied warranty of habitability, the tenant must prove that the premises is unsafe or unsanitary and thus unfit for habitation.
 - In implied warranty cases, the Court will consider whether the landlord's actions were reasonable under the circumstances.

LIABILITY

- If a landlord conveys a premises that includes a dwelling unit subject to a rental agreement, a manufactured home community, or a mobile home park in a good-faith sale to a bona fide purchaser, the landlord and a manager of the premises is relieved of liability under the rental agreement.
- A landlord is not liable in a civil action for personal injury, death, property damage or other damages arising out of the use of a firearm or ammunition except for in cases of willful, reckless, or gross negligence.

DISCLOSURE

- A landlord is required present the tenant with a written disclosure at or before the beginning of the tenancy disclosing the name and address of the manager of the premises and the owner or the owner's agent.
- Required written notice of any rent increase
 - Under Chapter 562A – 30 days notice
 - Under Chapter 562B – 90 days notice

WRITTEN RENTAL AGREEMENT

- Chapter 562B requires the landlord to offer the tenant the opportunity to sign a written agreement for the lease of the mobile home space.
- If a written agreement is prepared, the landlord must tender and deliver a signed copy of the rental agreement, and the tenant must sign and deliver a fully executed copy of the rental agreement within 10 days after the agreement is executed.

BAILMENT

Generally, the Court has agreed that a landlord has no duty to store or maintain a tenant's personal property after a tenant is lawfully evicted, but the landlord could become liable if a bailment occurs.

MOBILE HOMES AND THE PARK OR COMMUNITY

- Prohibitions the landlord from enforcing certain conditions on the tenant through the use of rules and regulations.
- Landlord's action regarding the tenant's sale of the mobile home.
- A landlord is not allowed to prohibit meetings between tenants in the manufactured home community or park community or recreational hall.
- When a landlord sells their interest in the community or park, the landlord's successor in interest shall have the same legal obligations, rights and remedies with respect to all rental agreements.

RETALIATORY CONDUCT

- A landlord may not retaliate against a tenant when:
 - The tenant complains to a governmental agency which enforces building or housing codes about a violation on the premises that materially affects health and safety
 - The tenant organizes or becomes a member of a tenant's union or similar organization, or
 - The tenant complains to the landlord about the landlord's failure to maintain a fit premises as required by section 562A.15 or 562B.16.
- Chapter 562B also prohibits a landlord from retaliating against a tenant for the tenant's exercise of any rights or remedies afforded to the tenant pursuant to chapter 562B.
- The statutes presume the landlord's action is retaliatory if there is evidence of a good faith complaint:
 - one year prior to the landlord's alleged act of retaliation in the lease of a dwelling unit
 - six months prior to the landlord's alleged act of retaliation in the lease of a mobile home space.

PROHIBITION ON PENALTIES FOR SUMMONING EMERGENCY ASSISTANCE

- A landlord cannot limit a tenant's rights to summon law enforcement assistance or other emergency assistance
- A governmental entity is prohibited from penalizing a landlord or a tenant because the landlord or tenant sought law enforcement assistance or other emergency assistance, so long as either the landlord or tenant had a reasonable belief that the emergency assistance was necessary

TENANT OBLIGATION AND CONDUCT

- Maintain Dwelling Unit/Premises
- Rental Agreement and Rules
- Landlord Access
- Use and Occupy

MAINTAIN DWELLING UNIT/PREMISES

- The tenant has the duty to:
 - Maintain the dwelling unit or the mobile home space.
 - Comply with all obligations primarily imposed on tenants by building and housing codes which materially affect health and safety
 - Keep the area the tenant occupies and uses as clean and safe as the condition of the premises permits
 - Use a safe and clean manner when disposing of ashes, rubbish, garbage, and other waste
 - Refrain from deliberately or negligently destroying, defacing, damaging, impairing, or removing a part of the premises or knowingly permitting another person to do so
 - Keep all plumbing fixtures as clean as possible and to use all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances in a reasonable manner
 - Act in a manner that will not disturb a neighbor's peaceful enjoyment of the dwelling unit, manufactured home community, or mobile home park
- A tenant of a mobile home space who owns the mobile home must maintain in safe, working order the utility lines, pipes, and cables extending from the mobile home to outlets provided by the landlord.

RENTAL AGREEMENTS AND RULES

Tenants have an obligation to comply with the rental agreement, including paying rent when due, and to comply with the landlord's written rules and regulations regarding the tenant's use and occupancy of the premises.

LANDLORD ACCESS

- Under chapter 562A, a tenant may not unreasonably withhold the tenant's consent to allow the landlord access to inspect the premises; make repairs, decorations, alterations, or improvements; supply necessary or agreed services; or exhibit the dwelling unit.
 - A landlord does not need consent to enter the dwelling unit in an emergency.
- Under chapter 562B, the landlord does not have the right of access to the mobile home owned by the tenant unless the access is necessary to prevent damage to the mobile home space or to respond to an emergency.
 - The landlord is allowed to enter onto the mobile home space, but not the unit, to inspect the mobile home space; make necessary or agreed repairs or improvements; supply necessary or agreed services; or exhibit the mobile home space to certain persons

USE AND OCCUPY

The tenant generally has an obligation to use and occupy the dwelling unit or mobile home only as a dwelling unit, although chapters 562A and 562B provide for some exceptions.

REMEDIES

- Tenants Remedies
- Landlord Remedies





TENANT'S REMEDIES



LANDLORD'S NONCOMPLIANCE WITH RENTAL AGREEMENT OR FAILURE TO MAINTAIN FIT PREMISES

- Material Breaches
- Subsequent Breaches
- Other Remedies

BREACH OF CONTRACT

MATERIAL BREACHES

A tenant may terminate the rental agreement if the landlord materially breached the rental agreement or failed to maintain a fit premises as required by statute by delivering a written notice to cure to the landlord with the proposed date of termination not less than 7 days if renting a dwelling unit and not less than 30 days if renting a mobile home space.

SUBSEQUENT BREACHES

- The tenant of a dwelling unit can terminate the rental agreement if, within the next six months, the landlord acts or fails to act in a way that is substantially similar to the action causing the prior noncompliance as long as the tenant gave the landlord the written notice to cure the prior noncompliance.
- To terminate for subsequent breach, the tenant must give the landlord seven days' written notice of termination specifying the breach and the date of termination.
- Upon the termination of the agreement, the landlord of a dwelling unit must return all prepaid rent and security as required by other statutory provisions..

OTHER REMEDIES

- The tenant is allowed to pursue an action for damages or an injunction.
 - A tenant under chapter 562A has additional limitations in pursuing those remedies
- The tenant, under chapter 562A, may also recover reasonable attorney fees upon the landlord's material breach of the rental agreement or noncompliance with the obligation to maintain a fit premises if the landlord's noncompliance or breach was willful.
- The tenant, under chapter 562A, may also use the landlord's noncompliance as a defense if the landlord has an action against the tenant for possession or rent.
 - The tenant may file a counterclaim for the amount which the tenant would otherwise be able to recover.

LANDLORDS FAILURE TO SUPPLY ESSENTIAL SERVICES

If the landlord either deliberately or negligently fails to supply running water, hot water, or heat, or essential services, the tenant may procure the services and deduct rent, recover damages, or recover rent.

This is now available for tenants in Chapter 562B.

LANDLORD'S FAILURE TO DELIVER POSSESSION

Both chapters 562A and 562B allow a tenant, upon the landlord's failure to deliver possession to:

- Terminate the agreement or
- Demand performance of the rental agreement

FIRE OR CASUALTY DAMAGE

Under Chapter 562A, a tenant may:

- Vacate and terminate the rental agreement after providing proper notice to the landlord or
- Vacate the area rendered unusable

UNLAWFUL OUSTER, EXCLUSION, OR DIMINUTION OF SERVICE

- The tenant may recover possession or may terminate the rental agreement, and recover damages.
- Damages allowed:
 - Chapter 562A: actual damages sustained, reasonable attorney fees, all prepaid rent and security if the rental agreement is terminated, and punitive damages not to exceed twice the monthly rental payment.
 - Chapter 562B: an amount not to exceed two months' periodic rent and twice the actual damages sustained by the tenant.

LANDLORD'S ABUSE OF ACCESS

If the landlord makes an unlawful entry, a lawful entry in an unreasonable manner, or repeated demands for entry that would otherwise be lawful but is an unreasonable harassment of the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or the tenant may terminate the rental agreement.



LANDLORD'S REMEDIES



TENANT'S NONCOMPLIANCE WITH RENTAL AGREEMENT OR FAILURE TO MAINTAIN PREMISES

- Termination of rental agreement
- Recovery of damages and injunctive relief
- Public housing violations



TENANT'S NONCOMPLIANCE: TERMINATION OF RENTAL AGREEMENT

- Similar to the remedy provided for the tenant.
- The landlord is required to deliver a written notice to cure the breach which also specifies the rental agreement will terminate if not remedied.
- Upon reoccurrence of noncompliance, a landlord must provide tenant a written notice of the recurrence of the act, specifying the act, and date of termination.
- Length of notice varies across the chapters

TENANT'S NONCOMPLIANCE: RECOVERY OF DAMAGES AND INJUNCTIVE RELIEF.

- Under Chapter 562A, a landlord may recover damages, obtain injunctive relief, and reasonable attorney fees if the tenant's noncompliance was willful.
- Under Chapter 562B, a landlord may recover damages, obtain injunctive relief, and recover possession of the mobile home space.

TENANT'S NONCOMPLIANCE: PUBLIC HOUSING VIOLATIONS

If a tenant of dwelling unit violates the rental agreement and that violation is also violation of a federal regulation governing the tenants' eligibility for participation in the public housing program, the agency may issue a 30-day notice of termination of the lease.

TENANT'S FAILURE TO PAY RENT

- Termination of rental agreement
- Tenant Defenses
- Liquidated Damages



FAILURE TO PAY RENT: TENANT DEFENSE

The tenant must prove four elements to establish the defense:

1. The landlord failed to comply with the rental agreement or the landlord's statutory duty to maintain a fit premises;
2. The tenant notified the landlord at least seven days prior to the date rent was due of the tenant's intent to correct the condition constituting the landlord's breach at the landlord's expense;
3. The reasonable cost of correcting the condition constituting the breach is equal to or less than one month's periodic rent; and
4. The tenant, in good faith, caused the condition constituting the breach to be corrected prior to receipt by the tenant of written notice of the landlord's intent to terminate the rental agreement for nonpayment of rent.

FAILURE TO PAY: ACCELERATION CLAUSE OR LIQUIDATED DAMAGES

An accelerated damages or liquidated damages clause is enforceable when the amount of damages is uncertain and the amount fixed in the acceleration clause is fair and reasonable in light of the anticipated or actual loss caused by the breach and the difficulties of proof of loss.

Even though a rental agreement may include an accelerated damages clause, the landlord retains the duty to mitigate damages, and the damages obtained due to an acceleration clause must be offset by any amounts received in reletting the property.

TENANT'S FAILURE TO MAINTAIN PREMISES

If the tenant fails to comply with the statutory obligation to maintain the dwelling unit or mobile home space and that noncompliance materially affects health and safety, the landlord may:

- Enter the dwelling unit or mobile home space, cause the work to be done in a skillful manner, and
- Submit an itemized bill for the actual and reasonable cost or the fair and reasonable value as additional rent on the next date when periodic rent is due, or if the rental agreement has terminated, for immediate payment.

CLEAR AND PRESENT DANGER

- A landlord may terminate the rental agreement if the tenant has created or maintained a threat constituting a clear and present danger to the health or safety of other tenants, the landlord, the landlord's employees or agents, or other persons on or within 1,000 feet of the landlord's property.
- Landlord may terminate the rental agreement and file for possession giving service to the tenant of a single three days' written notice of termination and notice to quit with notice of available exemptions.

ACTIVITIES RISING TO THE LEVEL OF CLEAR AND PRESENT DANGER

This list includes but is not limited to:

- The threat of or actual physical assault,
- The threat of or actual illegal use of a firearm or other weapon or the possession of an illegal firearm,
- The tenant's or another person's possession of a controlled substance without a valid prescription

EXEMPTIONS AVAILABLE TO THE TENANT

- When the activities causing the clear and present danger are conducted by a person other than the tenant and the tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief against the person conducting the activities causing the clear and present danger
- If the tenant reports the activities causing the clear and present danger to law enforcement or the county attorney in an effort to initiate a criminal action against the person creating a clear and present danger
- A tenant who writes a letter to the person creating the clear and present danger telling the person not to return to the premises and stating that a return may result in a trespass or other action, and the tenant sends a copy of the letter to the appropriate law enforcement agency.

TENANT'S ABSENCE, NONUSE, OR ABANDONMENT

Chapters 562A and 562B both provide remedies for landlords but the terms and remedies are different depending on the type of property.

TENANT'S ABSENCE, NONUSE, OR ABANDONMENT: DWELLING UNIT

- A landlord renting a dwelling unit may recover actual damages from a tenant who has an anticipated extended absence and willfully fails to provide the landlord with notice of that absence if the rental agreement so requires.
- The landlord may also enter the dwelling unit as is reasonably necessary if the tenant is absent in excess of 14 days.
- A landlord is allowed to terminate the rental agreement
- A landlord is required to make reasonable attempts to reread the unit at a fair value in order to recover damages.

TENANT'S ABSENCE, NONUSE, OR ABANDONMENT: MOBILE HOME SPACE

A tenant is determined to have abandoned a mobile home when the tenant is absent from the mobile home without a reasonable explanation for 30 or more days and during which time there is either a default of rent three days after rent is due or the rental agreement is terminated due to the tenant's failure to pay rent or comply with the rental agreement.



TENANT'S FAILURE TO ALLOW ACCESS

Landlords leasing a dwelling unit and landlords leasing a mobile home space may terminate the rental agreement and recover actual damages if the tenant refuses to allow lawful access.

PROHIBITED REMEDIES

- Landlord's Lien
- Distraint for Rent
- Taking Possession



LANDLORD'S DUTY TO MITIGATE

Chapters 562A and 562B provide that an aggrieved party has a duty to mitigate damages.

LANDLORD'S REMEDY AFTER TERMINATION

A landlord leasing a dwelling unit may have a claim for

- Possession of the unit and rent
- Actual damages for breach of the rental agreement, and
- Reasonable attorney fees

FORCIBLE ENTRY AND DETAINER

The next step in the process, a judgment in a forcible entry and detainer action is used to obtain possession by removing the defendant from the premises and placing the plaintiff in possession of the premises.

NOTICE TO QUIT

Prior to bringing an action for forcible entry and detainer, the landlord pursuing the action due to the tenant's failure to pay rent, noncompliance with the rental agreement, or holdover after termination, must give the tenant written notice.

30-DAYS' PEACEABLE POSSESSION

The forcible entry and detainer chapter also bars a forcible entry and detainer action if the tenant has 30-days' peaceable possession with the plaintiff's knowledge after the cause of action accrues.

JOINDER

Chapter 648 also has a prohibition on joinder of any other claim with a forcible entry and detainer action, with exception of claim for rent or recovery as provided in sections 555B.3, 562A.24, 562A.32, 562B.17A, 562B.22, 562B.25, or 562B.27, or filing a forcible entry and detainer action as a counterclaim,

NOTICE

- As part of pursuing a remedy, an aggrieved party generally must give the other party notice of the intended action.
- Chapters 562A, 562B, and 648 set out the requirements for the timing, substance, and method of the notice required in each situation.

LANDLORD SERVING A GENERAL NOTICE

- Hand delivery to the tenant.
- Delivery evidenced by acknowledgement of delivery signed and dated by a resident who is at least 18
- Personal service
- Mailing by both regular and certified mail at the tenant's dwelling unit or the address provided by the tenant for mailing.
- Posting on primary entrance door of dwelling unit.
- A method of notice that results in the tenant receiving actual notice.

TENANT SERVING A GENERAL NOTICE

- Hand delivery to the landlord or the landlord's agent.
- Delivery evidenced by an acknowledgement of delivery signed and dated by the landlord or landlord's agent.
- Personal service.
- Delivery to an employee or agent of the landlord at the landlord's business office.
- Mailing by both regular and certified mail to the address of the landlord's business office or an address designated by the landlord for mailing.
- A method of notice that results in the landlord receiving actual notice.

SERVING NOTICE FOR SPECIFIC TYPE OF NOTICES

In all circumstances, the tenant is the intended recipient.

The landlord or other entity providing notice may:

- Delivery evidenced by an acknowledgement of delivery signed and dated by a resident of the dwelling unit who is at least 18
- Personal service.
- Posting on the primary entrance door of the dwelling unit and mailing by both regular mail and certified mail to the address of the dwelling unit or to the tenant's last known address if different from the address of the dwelling unit.

ASSISTANCE ANIMALS AND SERVICE ANIMALS

- A landlord shall waive lease restrictions and additional payments normally required for pets on the keeping of animals for the assistance animal or service animal of a person with a disability.
- A landlord may deny a request for an exception to a pet policy if a person, who does not have a readily apparent disability, or a disability known to the landlord, fails to provide documentation indicating that the person has a disability and the person has a disability-related need for an assistance animal or service animal.
- A tenant is liable for damage done to the any dwelling by the assistance animal or service animal of a person with disability.



FINDING OF DISABILITY AND NEED FOR AN ASSISTANCE ANIMAL OR SERVICE ANIMAL IN HOUSING

- A tenant shall obtain the reasonable accommodation documentation from a licensee under:
 - Chapter 148 – Medicine and Surgery and Osteopathic Medicine and Surgery
 - Chapter 148 – Physicians Assistant
 - Chapter 152 – Nursing
 - Chapter 154B – Psychology,
 - Chapter 154C – Social Work, or
 - Chapter 154D – Behavioral Science
- The Civil Rights Commission provides the form that the licensees are required to fill out for an accommodation.

WHAT QUALIFIES AS A SERVICE ANIMAL?



AN ASSISTANCE ANIMAL?





Questions?