

## Landlord Tenant Law

**LeadingAge Minnesota  
Senior Living NOW!  
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## General Provisions Under Minnesota Landlord/Tenant Law

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## Minnesota Statutes § 504B

- When is a lease required?
- Definitions
- Mandatory lease provisions
- Duties of Landlord
- Duties of Tenant

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### Minnesota Statutes § 504B

- Landlord:
- Must have a written lease for each unit rented to a residential tenant if 12 or more residential units
- Must give each tenant a copy of his or her written lease
- May obtain a signed and dated receipt of the written lease from a tenant
- If Tenant doesn't pay:
  - Landlord may bring action against a tenant to recover possession of the leased premises.

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### MN Statutes § 504B (continued)

- If a tenant pays the rent due after the landlord has initiated legal action, the tenant may then be restored to possession of the leased premises.
- Rent paid by a tenant after the initiation of action by a landlord must first be applied to the oldest balance claimed in the Complaint, unless the Court finds the claim for earlier rent has been waived.

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### MN Statutes § 504B (continued)

- If the building in which the leased premises is deemed unfit for occupancy and such unfitness is not the tenant's fault, the tenant cannot be held liable for the payment of rent unless the same is expressly provided for in a written agreement with the landlord.
- If a tenant abandons or otherwise vacates the leased unit without providing the landlord with at least three (3) days notice, the tenant is guilty of a misdemeanor.
- If a tenant dies, either the landlord or the personal representative of the tenant's estate may terminate the lease upon two (2) months written notice.

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**LEGISLATIVE CHANGES TO  
LANDLORD-TENANT LAW  
old and new**

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**Payment of Rent  
(MN Stat. §504B.118)**

- If Tenant pays rent in cash:
  - Landlord must provide tenant with receipt if tenant pays rent with cash
    - Provide at time of payment if paid in person
    - Provide within three (3) business days if paid by mail

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**Recovery of Attorneys' Fees  
(MN Stat. §504B.172)**

- If a lease entitles landlord to recover its attorneys' fees when it wins a legal action, tenant is entitled to recover his or her fees if he or she wins
  - Type of action must be identified in lease agreement
  - Tenant's action must be of the same type as landlords, under the same circumstances and to the same extent as specified in lease for landlord

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**Applicant Screening Fee  
(MN Stat. §504B.173)**

- Limitations on landlord
  - Can't charge fee when landlord knows no unit available (not new)
  - Can't collect or hold fee without providing prospective tenant with receipt
  - Can't use, cash or deposit fee until all prior applicants have either:
    - Been screened and rejected; or
    - Offered a unit and declined the same

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**Applicant Screening Fee  
(MN Stat. §504B.173)**

- Disclosures by landlord
  - Only apply if landlord accepts applicant screening fee
  - Must be in writing
  - Must identify name, address and number of screening service, if applicable
  - Criteria on which decision to rent to applicant will be based
- Landlord must notify tenant within 14 days of rejecting application
- Landlord must identify criteria applicant failed to meet

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**Applicant Screening Fee  
(MN Stat. §504B.173)**

- Landlord must return fee if:
  - Applicant is rejected for any reason not listed in landlord's disclosure
  - Prior applicant is offered and accepts a unit
- Landlord must return portion of fee not used for reference checks, credit reports or applicant screening reports

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**Applicant Screening Fee  
(MN Stat. §504B.173)**

- Remedies
  - Landlord who violates statute is liable to applicant for:
    - Amount of screening fee
    - Civil penalty up to \$100
    - Civil court filing costs
    - Reasonable attorneys' fees
  - Applicant who provides materially false information or omits material information is liable to landlord for:
    - Landlord's damages
    - Civil penalty up to \$500
    - Civil court filing costs
    - Reasonable attorneys' fees

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**Late Fees  
(MN Stat. §504B.177)**

- Landlord may not charge late fee if rent is paid after due date unless landlord and tenant agree in writing to include late fee
- Landlord may not charge late fees of more than 8% of overdue rent
- Subsidized housing with conflicting federal rules regarding late fees will follow the federal rules

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**Security Deposits  
(Minn. Stat. § 504B.178)**

- Landlord must return proper amount of security deposit
- Penalty for not returning proper amount of security deposit in bad faith - \$500.00

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**Separate Utility Billing  
(Minn. Stat. § 504B.215)**

- Utilities:
  - If Landlord bills utility charges separate from the rent, landlord must:
    - Provide prospective tenants with notice of utility costs
    - Predetermine and put in writing for all leases the formula used to calculate the utilities and how often landlord bills for utilities
    - Include in lease Landlord will provide copy of utility bills paid during tenant's tenancy upon request

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**Separate Utility Billing  
(Minn. Stat. § 504B.215)**

- If Landlord bills for gas and electric charges separately from rent, must inform tenants in writing of possible availability of energy assistance for low income by September 30 of each year
- Landlord must follow entire law on division of utility charges or is liable to the tenant for triple the damages or \$500.00, whichever is greater

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**Abandoned Property  
(Minn. Stat. § 504B.271)**

- If Tenant leaves property behind:
  - Landlord must hold property for 28 days
  - Prior to sale, Landlord must provide 14-day prior written notice of the sale by personal service in writing or send written notice by first-class and certified mail
  - If Landlord notifies Tenant by mail, the 14-day period is deemed to start the day the notice is mailed in the U.S. mail

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**Abandoned Property  
(Minn. Stat. § 504B.271)**

- If Landlord fails to give notice, Tenant may recover punitive damages in an amount not to exceed twice the actual damages or \$1,000.00, whichever is greater.

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**Right of Victims of Violence to  
Terminate Lease  
Minn. Stat. §504B.206**

- A tenant to a residential lease may terminate the lease without penalty or liability if the tenant or another authorized occupant fears imminent violence as outlined in statute (domestic abuse, criminal sexual conduct, etc.)

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**Right of Victims of Violence to  
Terminate Lease**

- Changes to original law August 2014:
  - Termination rights – Terminates for all tenants in the unit.
  - Payment – All tenants forfeit all claims for the return of the security deposit.
  - Victims covered under the law – In addition to victims of domestic abuse, the new law covers victims of criminal sexual conduct and stalking

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**Right of Victims of Violence to Terminate Lease (cont.)**

- Documentation:
  - In addition to orders for protection and no contact orders, writing produced and signed by court officials, law enforcement officials and qualified third parties as defined by statute.

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**More Provisions of § 504B**

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**Landlord Covenants:**

- The leased premises and all common areas are fit for the use intended by the parties;
- The landlord will keep the leased premises in reasonable repair during the term of the lease, unless the disrepair of the premises is caused by the tenant; and

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**Landlord Covenants:**

- The landlord will maintain the leased premises in compliance with applicable health and safety laws of the State of Minnesota

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**Tenant Covenants:**

- The tenant will not unlawfully allow controlled substances on the leased premises;
- The common area will not be used by the tenant, or any other person acting under the tenant's control, to manufacture, sell, give away, barter, deliver, exchange, distribute, purchase or possess a controlled substance in violation of any criminal provision; and
- A breach of these covenants voids the tenant's right to possession of the leased unit

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**Tenant's Right to Privacy**

- A landlord may enter the premises rented by a tenant only for a reasonable business purpose and only after making a good faith effort to give the tenant reasonable notice under the circumstances of its intent to enter

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**"Reasonable Purpose" Includes:**

- showing the leased unit to a prospective buyer or tenant
- performing maintenance work
- allowing government inspections
- investigating a possible disturbance or lease violation
- prearranged housekeeping work

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**Exceptions to Notice Requirement:**

- Landlord reasonably suspects:
  - (1) Immediate entry is necessary to prevent injury to persons or property (must relate to building maintenance, security or law enforcement);
  - (2) Immediate entry is necessary to determine a tenant's safety; and

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**Exceptions to Notice Requirement:**

- Landlord reasonably suspects:
  - (3) Immediate entry is necessary to comply with local ordinances regarding unlawful activity occurring within a tenant's premises.
- If Landlord substantially violates this provision of the law, tenant may use a tenants' remedy action to enforce Minnesota law and ask for rent reduction, full rescission of the lease, recovery of any damage deposits and up to a \$100 civil penalty

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### Housing with Services Contracts

- Minnesota Statutes §144D.04
- Contract Required
  - No HWS establishment may operate in MN unless a written housing with services contract is executed
- Contents of Contract
  - Shall include at least the following elements in itself or through supporting documents or attachments:

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### Housing with Services Contracts

1. the name, street address, and mailing address of the establishment;
2. the name and mailing address of the owner or owners of the establishment and, if the owner or owners is not a natural person, identification of the type of business entity of the owner or owners;
3. the name and mailing address of the managing agent, through management agreement or lease agreement, of the establishment, if different from the owner or owners;
4. the name and address of at least one natural person who is authorized to accept service of process on behalf of the owner or owners and managing agent;
5. a statement describing the registration and licensure status of the establishment and any provider providing health-related or supportive services under an arrangement with the establishment;
6. the term of the contract;

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### Housing with Services Contracts

7. a description of the services to be provided to the resident in the base rate to be paid by resident, including a delineation of the portion of the base rate that constitutes rent and a delineation of charges for each service included in the base rate;
8. a description of any additional services, including home care services, available for an additional fee from the establishment directly or through arrangements with the establishment, and a schedule of fees charged for these services;
9. a description of the process through which the contract may be modified, amended, or terminated, including whether a move to a different room or sharing a room would be required in the event that the tenant can no longer pay the current rent;
10. a description of the establishment's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;
11. the resident's designated representative, if any;
12. the establishment's referral procedures if the contract is terminated;

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### Housing with Services Contracts

13. requirements of residency used by the establishment to determine who may reside or continue to reside in the housing with services establishment;
14. billing and payment procedures and requirements;
15. a statement regarding the ability of residents to receive services from service providers with whom the establishment does not have an arrangement;
16. a statement regarding the availability of public funds for payment for residence or services in the establishment; and
17. a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the establishment is located.

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### Checklist

- Building's name and mailing address
- Owner's name and mailing address
- Managing agent's name and mailing address
- Name and address of Owner's authorized agent
- Registration and licensure status
- Name of providers providing health-related and/or supportive services pursuant to contract

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### Checklist

- Name of tenant's designated representative
- Explanation of referral procedures
- Residency requirements
- Procedures for billing and payment
- Statement regarding outside service providers
- Statement regarding availability of public funds for payment of rent and/or services
- Statement regarding availability of and contact information for long-term care consultation services

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### Checklist

- Term of contract
- Description of basic services offered and delineation of charges for services
- Description and cost of additional services offered
- Method by which contract may be modified
- Explanation of complaint resolution process, including toll-free number of Ombudsman's office

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## EVICTIION ACTIONS



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### Why Evict?

- Non-payment
- Violation of the terms of the Lease
  - Examples:
    - Illegal drugs
    - Smoking in non-smoking community
    - Destruction of Landlord's Property
    - Behavior issues

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### Removal from Property

- No force allowed
- Peaceful recovery
- Physical removal by sheriff

Nonpayment and lease violations can be pursued simultaneously

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## EVICTIION PROCESS

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### Notice of Lease Termination

- Notice to Tenant of termination of lease
  - Timing?
- If HUD, additional requirements for termination notice

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### Complaint

- The specific facts of the grounds for eviction;
- Dates and times of alleged violations;
- Specific lease provisions violated;
- Names of persons allegedly living on the property;
- Names of neighbors stating complaints, and the precise nature of those complaints; and
- A copy of the notice of termination and lease

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### **Court Process**

- Landlord files the case with the court administrator, along with a filing fee. Court administrator prepares a summons.
- Court administrator forwards summons to landlord. Landlord must arrange to serve the defendant (tenant) with the summons at least 7 days before the initial hearing, either by personal or substitute service.

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### **Eviction Action**

- If no material violation of lease has occurred but rent is due, a tenant has up to (7) additional days to pay the outstanding rent
- The Court must hear an eviction action within 7-14 days from the date on which the Court issued a Summons

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### **Court Process**

- Only a principal or licensed attorney is allowed to appear in Housing Court unless Power of Authority is attached to the Complaint at the time of filing.
- Tenant may answer the complaint.
- In most courts, the initial court hearing serves as an arraignment. If the defendant does not appear, the court will find for the plaintiff and issue a Writ of Restitution.

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### Court Process

- In Ramsey and Hennepin Counties, the court requires a corporation to be represented by an attorney in an eviction action.
- In Hennepin and Ramsey Counties, a referee presides over the arraignment.
- If defendant appears and disputes the action, the court usually schedules a trial for another day.

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### Court Process

- If defendant appears and does not dispute the action, the court will rule for plaintiff, but could delay the issuance of a Writ of Restitution for seven days.
- At trial, landlord has the burden of proving breach of contract and the tenant may raise numerous defenses.
- If tenant prevails, the landlord may not evict tenant at this time.

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### Court Process

- If landlord prevails, the court may immediately issue a Writ of Restitution, a 24-hour eviction notice, or delay issuance of the Writ for up to seven days.
- Landlord will arrange for the sheriff or police to deliver Writ of Restitution.
- If tenant does not move out, landlord must schedule an eviction of tenant with the sheriff or police.

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### Following the court process...

- Landlord is required store the tenant's property, either on site or with a storage company, for up to 28 days.
- Either party may appeal within 10 days from the entry of judgment.
- If a referee hears the case (Hennepin and Ramsey counties), a party may seek a judge's review of a decision recommended by the referee.

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### TENANT DEFENSES TO EVICTION ACTION

1. Retaliation or penalty for enforcing rights under lease or under Federal or State Law
2. Retaliation or penalty for tenant's good faith report to a governmental authority of the landlord's violation of any health, safety, housing or building codes or ordinances

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### TENANT DEFENSES TO EVICTION ACTION

3. Landlord increased rent or decreased services offered as a penalty for any lawful act of tenant as described in 1 and 2 above
4. Statutory presumption of retaliation if a notice to terminate a tenant's lease is served within 90 days of an event described in 1 and 2 above

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**Action to Recover  
(Minn. Stat. § 504B.291)**

- Rebuttable presumption rent has been paid if Tenant provides one or more copies of money orders or one or more original receipt stubs showing the purchase of money orders and:
  - The total amount of the rent paid
  - A date or dates approximately corresponding with the date rent was due
  - In the case of copies of money orders, they are payable to Landlord

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**Action to Recover  
(Minn. Stat. § 504B.291)**

- Landlord can rebut this presumption by producing a business record that shows Tenant has not paid rent
- Landlord can introduce other evidence to rebut this presumption

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**HWS/AL ISSUES**

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### **ADDITIONS TO HWS LAW IN 2010**

- Statute identifies specific terms to include in HWS contract
  - Must include breakdown of rent and services included in base rate
- Must provide existing and prospective tenants with information contained in the Uniform Consumer Information Guide
- When terminating a lease, written notice must include contact information for ombudsman and a statement of how to request problem-solving assistance

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### **ADDITIONS TO HWS LAW (2010)**

- As part of registration process with MDH, HWS establishments need to identify whether services are included in the base rate to be paid by tenant (MN Stat. §144D.03)
- The UCIG must include information about which home care services may be covered by Medicare (MN Stat. §144G.06)

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### **HWS Contract & Lease Agreement**

- Breakdown of rent and services included in base rate
- Ability to move tenant into different unit based on ability to pay rent
- Ability to terminate agreement based on inability to meet rent obligations

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## **Mandatory Consultation**

- Minn. Stat. § 256B.0911, Subd. 3c. requires:

HWS providers offering or providing assisted living services are required to inform all prospective residents of the availability of and contact information for transitional consultation services prior to executing a lease or contract with a tenant.

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**QUESTIONS???**

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