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# LANDLORD TENANT

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## DISCLAIMER

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The information on this page is intended for educational purposes only. **It is not legal advice.** If you have specific questions, or are experiencing a situation where you need legal advice, you should contact an attorney.

Student Legal Services makes every effort to ensure the accuracy of the information on this page. However, the law changes frequently and this site should not be used as a substitute for legal advice. It is highly recommended that anyone accessing this page consult with an attorney licensed in the state of Wyoming prior to taking any action based on the information provided on this page.

## BREAKING YOUR LEASE

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### **BREAKING A LEASE IS EXTREMELY DIFFICULT.**

If you break your lease without permission you will likely remain liable for the remainder of the rent. That means if you have a year-long lease that started in August and you decide to move out in December without written permission from your landlord, then you are likely responsible for the rent through the end of the lease (August of the next year) even though you no longer live at the property. You will also be liable for any damage to the property.

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## BREAKING A LEASE LEGALLY

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### MATERIAL BREACH

Generally, the only circumstance in which you can terminate the lease agreement, without being liable for the remainder of the rent, is if you show that the landlord committed a material breach of the lease agreement.

A material breach usually means that the landlord has essentially defeated the purpose of making the contract in the first place. This usually only happens when the leased property is uninhabitable.

### WYOMING SAFE HOMES ACT

Though technically not a legal reason to break a lease, the Wyoming Safe Homes Act offers an affirmative defense for individuals who break their lease because of domestic abuse or sexual violence. That means that if an individual broke their lease for the reasons specified in the Act, and followed the steps required by the Act, then they have a defense if the landlord

tries to take them to court for breaking the lease and they will not have to pay the remainder of the rent.

Under the Wyoming Safe Homes Act, a tenant may break their lease and not be liable for rent after they vacate the premises if:

- There is an imminent threat of domestic abuse or sexual violence, or a prior record of these things, and;
- Tenant gives 7 days written notice to landlord prior to leaving.
  - Be aware, this act does not protect you from eviction or an action by the landlord if you stop paying rent before you give the required written notice.
  - It does act as a defense if your landlord takes you to court for breaking your lease.

[SAFE Project](#) and [STOP violence](#) are good resources if this type of issue arises.

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## SUBLETTING

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If you have to leave your rental and have no other option, try subletting. Subletting is renting out all or part of a house or other building that you are renting from someone else to a third party. Make sure you have your landlord's permission before you sublet your rental. Landlords can prohibit tenants from subletting the rental—read through your lease to ensure there are no clauses in the lease that would stop you from subletting the property.

If your landlord allows you to sublet the rental, it is important to remember is that you are still the one on the hook with your landlord. You should sign a contract with your subtenant before subletting. The contract should make the subtenant responsible to you for the same things that you are responsible for to your landlord, such as late fees and damages.

For example, if you find a subtenant to take over your year-long lease after six months, and your subtenant leaves after two months, you will be responsible for paying the landlord the remaining four months of rent. If you signed an agreement with the subtenant covering the same things that you are responsible for under the original lease, then you will be able to sue the subtenant to recover those four months of rental payments.

## DEPOSITS

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### IN GENERAL

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A lease provision requiring the deposit of money as security for performance of all the conditions in the lease or to pay for damages caused by the tenant is valid and enforceable.

There are two primary types of deposits: security deposits and utilities deposits. There are also other types of deposits such as pet deposits. The landlord is required to identify in the lease any portion of a deposit that is nonrefundable.

Once the rental agreement is terminated, the landlord may apply a deposit for:

- payment of unpaid rent,
- damages to the unit beyond reasonable wear and tear,
- the cost to clean the unit to the condition it was in at the beginning of the rental agreement,
- any other costs that are provided in the contract.

Additionally, if you damage the rental property, you will remain liable for any damages over those paid by the deposit, and the landlord can take legal action against you to recover those damages. For example, if you paid a \$1000 security deposit and cause \$3000 damage to the floor, then the landlord can keep your \$1000 security deposit AND take you to court to receive the additional \$2000 to cover the damage.

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## SECURITY DEPOSIT

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The Wyoming statutes require certain things of both the landlord and the tenant for the return or use of security deposits. The landlord's duties change depending on whether or not they are making deductions from the deposit.

### TENANT

Tenants must notify the landlord of their new address within 30 days of terminating the rental agreement. This is done so the landlord knows where to send the deposit.

If the tenant does not notify the landlord within 30 days, then the landlord has 15 days to return the deposit from whenever the tenant notifies the landlord of their new address.

### LANDLORD

**No deductions:** Landlords must return the security deposit within 30 days of the termination of the lease, or 15 days from the receiving the tenant's new address if the tenant did not provide the forwarding address within 30 days of termination of the lease agreement.

**Deductions**—landlord has 60 days to provide an itemized list of all deductions and return the remainder of the deposit.

If the landlord sends you an itemized deduction and you look it over and feel the charges are unfair or you contest them, it is possible to challenge them in court. If you plan on doing this, **DO NOT** cash the refund check. Cashing the check implies that you accept that amount and can waive your rights to dispute the landlord's figures.

If the landlord does not follow these requirements, then you are entitled to the entire deposit. If it is beyond the 60-day period and you have not received your deposit or the itemized list from your landlord, then you can go to small claims court and sue your landlord for the deposit amount. It is important to note that even though you are entitled to receive the entire deposit back if the landlord does not follow the requirements, your landlord can countersue you for any damages. This means that if you paid a \$1000 deposit and there are \$1200 worth of damages to the apartment, the court will order the landlord to return the \$1000 to you and you will have to pay the landlord \$1200.

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## UTILITY DEPOSIT

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If the deposit is a utilities deposit, it must be refunded within 10 days of the tenant showing that all utility charges have been paid. If the landlord fails to comply with these requirements the tenant can sue the landlord in small claims court to recover the deposit and court costs.

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## EVICITION

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A landlord may evict a tenant if the tenant is:

- three (3) days late paying rent,
- in violation of any of his duties,
- or for any other reason specified in the lease agreement.

Eviction is a three-step process including receiving a “Notice to Quit,” a “Forcible Entry and Detainer Summons,” and a “Writ of Restitution.”

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### STEP ONE: NOTICE TO QUIT

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A “Notice to Quit” is the first step a landlord must take to evict tenants from the property. A notice to quit asks the tenant to quit, leave, and vacate the premises. This does not mean the lease is automatically terminated. Rather, a notice to quit gives the landlord the right to go to court. A notice to quit is most often posted on the rental unit’s front door, though it can also be served on the tenant by the sheriff or a process server.

The landlord is required to give the tenant certain information within the notice to quit. In particular, landlords must:

- provide the tenant with notice that they are in violation of the lease, and
- give the tenant at least three days to leave the premises before starting eviction proceedings in court.

If the tenant does not leave the premises within the specified time, then the landlord can go to court to evict the tenant.

Sometimes the notice to quit will give the tenant the opportunity to “cure” or fix the problem. If the tenant cures the problem, then the landlord cannot evict them for that issue. For example, if the landlord posted the notice to quit because the tenant was two months behind on rent, and gave the tenant the option to cure the issue, then the tenant could pay the landlord the late rent within the given time and prevent eviction proceedings.

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### STEP TWO: FORCIBLE ENTRY AND DETAINER

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If the tenant does not leave the premises following the “Notice to Quit,” the next step is a “Forcible Entry and Detainer Summons.” This is the tenant’s notification that the landlord

has filed a Complaint in court. A Complaint is the document that starts a lawsuit. The Forcible Entry and Detainer Summons must be received at least 3–12 days in advance of the court date.

If a tenant receives a Forcible Entry and Detainer Summons it means that the eviction proceedings will proceed in court. If a tenant receives this and wants to fight the eviction, they need to file an Answer with the court. An “Answer” is a legal document responding to the landlord’s Complaint. Equal Justice Wyoming has a form Answer and instructions available [here](#).

The court proceedings will determine whether or not the tenant must leave the property.

If the court orders the tenant to vacate the apartment and the tenant does not leave, then the process moves on to the third step.

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### STEP 3: WRIT OF RESTITUTION

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A “Writ of Restitution” gives the sheriff the ability to remove the tenant from the property.

The landlord does not have the ability to physically remove the tenant from the property, or change the locks on the property. If the landlord wins the forcible entry and detainer action described above, then they ask the court for a “Writ of Restitution” which gives the landlord permission to have the sheriff remove the tenant from the property. Only the sheriff can physically evict the tenant from the property.

The writ of restitution will give the tenant between 0 and 30 days (usually) to leave the premises. If the tenant does not leave, then the sheriff will evict them.

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### PERSONAL PROPERTY IN EVICTION PROCEEDINGS

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A landlord does not automatically obtain a lien on the tenant’s personal property. Therefore, even if the tenant is evicted for failing to pay rent, the landlord cannot keep the tenant’s personal property as payment. However, the landlord may keep the tenant’s personal property if there is a provision in the lease allowing the landlord to do so.

Following the termination of the lease, a landlord may dispose of any trash or non-valuable property left behind. The landlord can also dispose of valuable property left behind if the landlord gives the tenant notice that he intends to dispose of the property and the tenant does not respond. Additionally, even if the tenant responds, the landlord is entitled to charge the tenant for storage costs, and the cost to remove the personal property from the premises to the storage facility. The tenant must pay these fees before retaking possession of their property.

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### REQUESTING REPAIRS

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The tenant can request repairs to the property if they have reasonable cause, supported by evidence, to believe the residential rental unit does not comply with the landlord’s duties.

Under the Wyoming statutes landlords are required to:

- maintain the unit in a safe and sanitary condition fit for human habitation,
- ensure the property has operating electric, heating, and plumbing,
- provide the property to the tenant free from substantial disturbances, and
- maintain other appliances and facilities as specifically contracted in the lease.

**Beware, these duties can be contracted away by the lease.** Thus, if the lease says that the landlord does not have to ensure there is heat, then the property does not have to have heat even though it is listed as a duty in the statute.

If there is a problem with the unit that the landlord is required fix under either the Wyoming statutes, or the lease agreement, then the tenant can request that the landlord fix the issue.

To legally force the landlord to fix the issue the tenant must:

- comply with all duties required by Wyoming statute §1-21-1204 and reproduced here (*though tenants must comply with all duties listed in order to enforce their right to make the landlord perform repairs, the bolded provisions are most commonly at issue*):
  - maintain the rental unit in a clean and safe condition and not unreasonably burden any common area,
  - dispose of all garbage and other waste in a clean and safe manner,
  - maintain all plumbing fixtures in a condition as sanitary as the fixtures permit,
  - use all electrical, plumbing, sanitary, heating and other facilities and appliances in a reasonable manner,
  - occupy the residential unit in the manner for which it was designed and not increase the number of occupants above the number specified in the rental agreement without written permission of the owner,
  - **be current on all payments required by the rental agreement,**
  - **comply with all lawful requirements between the owner and renter,**
  - remove all property and garbage either owned or placed within the residential rental unit by the renter or his guests prior to termination of the rental agreement and clean the rental unit to the condition at the beginning of the rental agreement.
- refrain from doing any of the prohibited acts listed within Wyoming statute §1-21-1205 and reproduced here:
  - intentionally or negligently destroy, deface, damage, impair or remove any part of the residential rental unit or knowingly permit any person to do so,
  - interfere with another person's peaceful enjoyment of the residential property, or
  - unreasonably deny access to, refuse entry to or withhold consent to enter the residential rental unit to the owner, agent, or manager for the purpose of making repairs to, or inspecting the unit, or showing the unit for rent or sale.
- Request repairs by following the steps listed in the statutes (and described below).

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## STEP 1: FIRST NOTICE

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The tenant must advise the landlord in writing of the issue that needs to be fixed, and must state the action the renter requests be taken by the owner. This notice must be sent to the landlord via certified mail or served by the sheriff or a process server.

Note, the landlord does NOT have to fix, or remedy any condition caused by the inappropriate use or misuse of the property by the tenant, the tenant's family, or the tenant's guests.

Once the landlord receives this notice, they have three options:

- 1) correct the condition,
- 2) notify the tenant in writing that they dispute the claim, or
- 3) refuse to fix the condition and terminate the lease agreement.

The landlord can only exercise the third option if the cost of repairs exceeds an amount which would be reasonable in light the rent charged, the nature of the rental property, or the rental agreement. For example, a tenant pays the landlord \$600/month for a one room house. The tenant notices that a light switch in the bathroom is faulty and asks the landlord to fix the switch. The landlord learns that the switch is faulty because the entire house needs to be rewired. The repairman tells the landlord that to fix the issue they will have to take down all the walls and the ceiling, replace all the wiring, and then re-drywall the whole house for a cost of \$30,000. In that situation the landlord can probably terminate the lease because the cost to fix the issue is likely unreasonable in comparison to rent charged.

If a landlord terminates the lease rather than making the repair, then the landlord is required to:

- notify the tenant in writing within a reasonable time of receiving the tenant's notice,
- give the tenant 10–20 days to find substitute housing,
- refund any rent paid in advance, and
- follow the procedure for returning security deposits.

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## STEP 2: SECOND NOTICE

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**Tenants must be in compliance with all the duties listed above in order to exercise their rights under this section.**

If the landlord fails to respond to the tenant's first notice (step one) within a reasonable time, then the tenant can serve a "notice to repair or correct condition" on the landlord. This notice must be sent by certified mail or served by the sheriff or a process server and must include the information specified by Wyoming statute §1-21-1206. It must:

- recite the previous notice sent under § 1-21-1203(b) (step one),
- state the number of days that have elapsed since the first notice was served and state that under the circumstances the period of time constitutes a reasonable time under §1-21-1203(b),
- state the conditions included in the previous notice which have not been corrected,
- demand that the uncorrected conditions be corrected, and

- state that if the owner fails to commence reasonable corrective action within three (3) days the tenant will seek redress in the courts.

If the owner does not correct, or use due diligence to correct the issues listed in this notice, or if the owner notifies the tenant that they dispute the claim, then the tenant can sue the landlord in circuit court.

If the tenant shows the court that the landlord unreasonably failed to correct the issue, or failed to use due diligence to correct the issue, the tenant may be awarded:

- damages—including rent retained or collected, and/or
- affirmative relief—including terminating the lease, or directing the landlord to make reasonable repairs.

If the court terminates the rental agreement, the tenant is entitled to a refund of the balance of the rent and the security deposit within 30 days of the date the lease is ordered terminated. The tenant must vacate the premises no sooner than 10 days and no later than 20 days after termination of the lease by the court.

## WHAT TO DO WHEN MOVING IN AND OUT

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Using the landlord tenant checklist provided in the Legal Documents section of this website is helpful when moving in and out of your rental unit. It is a good idea to keep a copy of the checklist for your records.

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### INSPECTING THE RENTAL

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Tenants should make a list of everything that is damaged in the rental unit after they sign the lease, but before they move into the rental. Both the landlord and the tenant should sign and date the list and each should keep a copy.

If the landlord refuses to sign, make the list in the presence of a disinterested witness and send a copy of the list to the landlord by certified mail. A disinterested witness is someone who does not have a connection to the outcome of a potential dispute. It is probably best to find someone other than a roommate, parent, spouse, or partner etc. to be a witness. Tenants should always retain one of the duplicate lists for their files.

Take pictures of all the rooms and of each damaged item when doing the initial inspection and filling out the list of damaged items. These pictures are helpful if there is a dispute about damages or the condition of the apartment when the tenant moves out. Failing to properly inspect the property can hurt tenants in a couple of ways.

- If there is an obvious issue that the tenant missed during the inspection, then they may not be able to complain about that issue once it is discovered.
- The tenant may be forced to pay for the repair at move-out because there will be no way to prove that it was broken prior to move-in.



Tenants should keep a copy of the signed lease, the checklist, and any pictures of the rental in a safe location. Many security deposit disputes come down to “he-said, she said” situations—having documentation and a disinterested witness available to testify about the state of the apartment when you moved in can be crucial.

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## QUESTIONS TO ASK BEFORE MOVING IN

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Tenants should ask questions before deciding to rent a unit. Tenants should try to talk to current and past tenants of the landlord to learn:

- if the landlord makes repairs promptly,
- if the landlord promptly refunds deposits after the lease ends,
- and if there was any unnecessary interference from the landlord.

Things to ask the landlord include:

- availability of parking,
- average cost of utilities,
- treatment of damage deposits and refunds,
- trash removal, and
- any rules or regulations concerning the unit.

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## ROOMMATE AGREEMENTS

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Creating and signing a roommate agreement is a good idea. It can establish who is liable for late rent or utilities, a cleaning schedule, and a way to separate property that was bought jointly. It is also a way for individuals to protect themselves in case a roommate leaves mid-lease.

Most lease agreements assign the roommates “joint and several liability” which means that each person who signs the lease is responsible for the entire agreement. For example, if two people share a \$1,000/month house and each pays half the rent, and one person leaves after six months and stops paying the rent, then the remaining roommate must cover the entire \$1000. If those people signed a roommate agreement that says each person is responsible for half the rent and utilities, then the remaining roommate will still have to pay the landlord the full amount, but will be able to sue the roommate who left to recover the roommate’s half of the expenses. If there is no written roommate agreement, then the remaining roommate can try to sue the roommate who left to enforce an oral contract, but it is easier to enforce a written contract.

There are examples of roommate agreements under the Legal Documents section of this website.

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## MOVING OUT - NOTICE

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Tenants must usually provide the landlord with notice prior to terminating the lease. This notice is generally required regardless of whether the lease is expiring naturally, or if the

tenant is breaking the lease early. Failure to give notice can result in tenants owing additional rent. Lease agreements generally state the amount of notice required to terminate the lease. If the lease agreement does not have a provision specifying when notice should be given, one full rental payment period's notice is common practice (most likely around 30 days).

Even if not required, it is usually a good idea to give notice to the landlord in writing. Tenants should keep a copy of the notice for their records. For additional protection, tenants can send the notice by certified mail so there is a record that the landlord received it.

## OTHER HELPFUL INFORMATION

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For more information on landlord/tenant issues visit [Wyoming Equal Justice](#) website.