

QUESTION AND ANSWERS FROM NMLA RENTER'S GUIDE

1. OBTAINING HOUSING

WHERE DO I START?

THERE ARE LOTS OF WAYS TO FIND A HOUSE OR APARTMENT TO RENT WITHOUT PAYING AN AGENCY. HOWEVER, IF YOU DO DECIDE TO GO WITH AN AGENCY, IT MAY BE WISE TO CHECK THAT AGENCY'S CREDIBILITY THROUGH THE BETTER BUSINESS BUREAU OR THE CONSUMER PROTECTION DIVISION OF THE ATTORNEY GENERAL'S OFFICE.

FOR MORE INFORMATION, SEE OUR SECTION FROM THE NEW MEXICO RENTER'S GUIDE ON FINDING A PLACE TO LIVE.

AM I ELIGIBLE FOR PUBLIC HOUSING?

ELIGIBILITY FOR PUBLIC HOUSING IS BASED ON ANNUAL GROSS INCOME AND WHETHER YOU QUALIFY AS ELDERLY, A PERSON WITH A DISABILITY, OR AS A FAMILY, AS WELL AS YOUR IMMIGRATION STATUS. PUBLIC HOUSING IS AVAILABLE TO THOSE WITH LOW INCOME. FOR THESE PURPOSES, YOU ARE TYPICALLY CONSIDERED LOW-INCOME IF YOUR ANNUAL INCOME IS LOWER THAN 50 - 80% OF THE AVERAGE INCOME IN YOUR AREA. THIS VARIES BY LOCATION, AND PREFERENCE IS OFTEN GIVEN TO PEOPLE WHO ARE ELDERLY, DISABLED, OR WHO HAVE FAMILIES.

FOR MORE INFORMATION ON PUBLIC HOUSING IN GENERAL, SEE THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S WEBSITE ON PUBLIC HOUSING AND OUR SECTION ON "PUBLIC HOUSING IN THE NEW MEXICO RENTER'S GUIDE" UNDER THE NEW MEXICO RENTER'S GUIDE CHAPTER ON TENANTS OF FEDERAL HOUSING.

WHAT DO I DO IF I AM HAVING TROUBLE FINDING A PLACE TO LIVE BECAUSE OF DISCRIMINATION?

WHEN LOOKING FOR HOUSING, DISCRIMINATION CAN TAKE A NUMBER OF FORMS:

- REFUSING TO SHOW A PERSON AN APARTMENT OR HOUSE FOR RENT,
- TELLING A PERSON THAT THE APARTMENT OR HOUSE IS NOT AVAILABLE WHEN IT IS,
- QUOTING A HIGHER RENT TO ONE PERSON THAN TO ANOTHER, OR
- HAVING DIFFERENT TERMS AND CONDITIONS FOR RENTING TO CERTAIN PEOPLE.

UNDER THE NEW MEXICO HUMAN RIGHTS ACT, IT IS ILLEGAL FOR LANDLORDS TO DISCRIMINATE AGAINST POTENTIAL TENANTS BECAUSE OF THEIR RACE, RELIGION, NATIONAL ORIGIN, GENDER, OR BECAUSE THE POTENTIAL TENANT HAS CHILDREN. IT IS ALSO ILLEGAL FOR LANDLORDS TO DISCRIMINATE BECAUSE OF PHYSICAL OR MENTAL DISABILITY.

IF YOU HAVE BEEN THE VICTIM OF HOUSING DISCRIMINATION, YOU SHOULD SEEK LEGAL ADVICE AS SOON AS POSSIBLE. YOUR LOCAL NEW MEXICO LEGAL AID OFFICE MAY BE ABLE TO HELP YOU.

WHAT COULD HAPPEN IF I NEED TO BACK OUT OF A RENTAL AGREEMENT BEFORE I MOVE IN?

THERE ARE A NUMBER OF THINGS THAT MIGHT PREVENT YOU FROM BEING ABLE TO MOVE INTO A SPACE AFTER YOU HAVE SIGNED AN AGREEMENT. IF YOU HAVE PAID A DEPOSIT, YOU WILL NOT BE ABLE TO LEGALLY FORCE THE LANDLORD TO GIVE IT BACK. THE LANDLORD MIGHT ALSO BE ENTITLED TO OTHER PAYMENTS FROM YOU. SEE OUR SECTION ON WHEN THINGS GO WRONG BEFORE YOU MOVE IN FOR MORE INFORMATION ON THE RISKS OF BACKING OUT OF A RENTAL AGREEMENT AND LIMITATIONS ON WHAT A LANDLORD CAN EXPECT FROM YOU.

WHAT DO I DO IF THE LANDLORD BACKS OUT OF A RENTAL AGREEMENT, BEFORE I MOVE IN?

IF THE LANDLORD FAILS TO LET YOU MOVE IN ON THE AGREED-UPON DATE OR DOESN'T LET YOU MOVE IN AT ALL, YOU MIGHT BE ENTITLED TO COMPENSATION FOR ANY FINANCIAL LOSSES YOU SUFFERED AS A RESULT. YOU MAY HAVE TO FILE A LAWSUIT TO GET COMPENSATION, SO BEFORE TAKING ANY KIND OF LEGAL ACTION

YOU SHOULD TRY TO GET LEGAL ADVICE. SEE OUR SECTIONS ON WHEN THINGS GO WRONG BEFORE YOU MOVE IN AND GOING TO COURT FOR MORE INFORMATION.

WHAT CAN I DO TO PREVENT FUTURE DISPUTES WITH MY LANDLORD BEFORE I MOVE IN?

GET ALL AGREEMENTS WITH YOUR FUTURE LANDLORD IN WRITING! THIS INCLUDES ALL AGREEMENTS INVOLVING PAYMENTS, THE LENGTH OF YOUR STAY, AND AGREEMENTS TO MAKE REPAIRS ON THE PROPERTY. ALSO, IT IS A GOOD IDEA TO TAKE PICTURES OF THE HOUSE OR APARTMENT BEFORE YOU MOVE IN, AND WRITE DOWN ANY PROBLEMS YOU SEE SO THAT YOU CAN AVOID BEING CHARGED FOR THEM WHEN YOU LEAVE. SEE THE SECTIONS ON PAYING RENT, WHEN REPAIRS ARE NEEDED, OBLIGATIONS OF LANDLORDS, AND MOVING OUT FOR MORE INFORMATION.

2. DEPOSITS

HOW GET I MAKE SURE TO GET AS MUCH OF MY DEPOSIT BACK AS POSSIBLE?

MAKE SURE TO GET A RECEIPT OF EVERY DEPOSIT PAID WHEN YOU PAY THEM. WHEN YOU MOVE OUT, MAKE SURE THE RENTAL UNIT IS IN AS CLEAN AND GOOD CONDITION AS WHEN YOU MOVED IN, THOUGH THE LANDLORD SHOULD NOT TAKE MONEY OUT OF YOUR DEPOSIT TO PAY FOR NORMAL WEAR AND TEAR. ALSO, MAKE SURE YOUR LEASE SAYS THAT THE LANDLORD WILL MAKE THE FINAL INSPECTION AT THE TIME THE TENANT VACATES RATHER THAN AFTER THE TENANT VACATES. THIS WAY YOU CAN MAKE THAT YOU HAVE THE RIGHT TO BE THERE FOR THE INSPECTION.

THIS TOPIC CAN BE QUITE COMPLICATED, AND DAMAGE DEPOSITS ARE ONE OF THE EASIEST WAYS FOR LANDLORDS TO TAKE ADVANTAGE OF TENANTS. IF YOU BELIEVE YOUR DEPOSIT HAS BEEN UNJUSTLY WITHHELD, YOU MAKE BE ABLE TO SEEK COMPENSATION IN SMALL CLAIMS COURT. AS ALWAYS, YOU SHOULD SEEK LEGAL ADVICE BEFORE TAKING A CASE TO COURT. SEE OUR SECTION ON DEPOSITS FOR MORE INFORMATION.

3. PAYING RENT

WHAT CAN HAPPEN IF I DON'T PAY MY RENT?

IF YOU DON'T PAY YOUR FULL RENT ON TIME, YOUR LANDLORD CAN EVICT YOU. HOWEVER, THE LANDLORD DOESN'T HAVE THE RIGHT TO JUST THROW YOU OUT. YOU HAVE CERTAIN RIGHTS: THE LANDLORD CANNOT EVICT YOU WITHOUT FILING A COURT ACTION AND TAKING YOU TO COURT. THE LANDLORD MUST GIVE YOU A 3-DAY NOTICE OF NON-PAYMENT BEFORE S/HE CAN EVICT YOU. IF YOU PAY YOUR RENT WITHIN 3 DAYS OF RECEIVING THIS NOTICE, THE LANDLORD LOSES THE RIGHT TO EVICT YOU.

IN ORDER FOR THE LANDLORD TO EVICT YOU, S/HE MUST GIVE YOU *ADEQUATE NOTICE OF THE EVICTION*. THIS MEANS THAT THE LANDLORD MUST HAND-DELIVER WRITTEN NOTICE, MAIL IT TO YOU, OR "POST" IT (USUALLY EITHER ON YOUR DOOR OR ON YOUR MAILBOX).

AS A RENTER, YOU HAVE A LEGAL OBLIGATION TO PAY THE LANDLORD THE AMOUNT OF RENT AGREED, AT THE TIME AND PLACE AGREED. IF THERE IS NO AGREED UPON TIME AND PLACE, THEN PAYING YOUR RENT ON THE FIRST OF THE MONTH AT THE RENTAL RESIDENCE IS GENERALLY ACCEPTABLE. THE LANDLORD MAY NOT RAISE YOUR RENT DURING THE TERM OF THE LEASE.

IF YOU ARE HAVING TROUBLE PAYING YOUR RENT, TALK TO YOUR LANDLORD AS SOON AS POSSIBLE! YOUR LANDLORD MIGHT BE WILLING TO NEGOTIATE A DIFFERENT AMOUNT OR TIME FOR YOU PAY. FOR MORE INFORMATION ON YOUR RIGHTS AS A RENTER, SEE THE NEW MEXICO RENTER'S GUIDE SECTION ON PAYING RENT.

4. YOUR OBLIGATIONS AS A TENANT

WHAT KINDS OF THINGS CAN THE LANDLORD HOLD ME RESPONSIBLE FOR, OTHER THAN PAYING RENT?

KEEPING THE UNIT CLEAN AND SAFE

AS A TENANT, YOU HAVE A LEGAL OBLIGATION TO KEEP THE RENTAL UNIT CLEAN, SAFE, AND FREE FROM UNNECESSARY DAMAGE. THE LANDLORD CAN MAKE YOU PAY FOR ANY DAMAGE CAUSED BY ABUSE OR NEGLECT.

YOU ARE ALSO RESPONSIBLE FOR DISPOSING OF ANY GARBAGE IN A CLEAN AND SAFE WAY, THOUGH THE LANDLORD IS RESPONSIBLE FOR PROVIDING YOU WITH DISPOSAL CONTAINERS.

FOLLOWING THE RULES IN THE RENTAL AGREEMENT

YOU MUST ALSO CONFORM TO ALL RULES THAT ARE LISTED IN THE RENTAL AGREEMENT. SEE THE NEW MEXICO RENTER'S GUIDE SECTION ON OBLIGATIONS OF LANDLORDS AND TENANTS FOR SAFETY, MAINTENANCE AND REPAIRS FOR INFORMATION ON EXCEPTIONS TO THIS GENERAL RULE.

AM I REQUIRED BY LAW TO LET MY LANDLORD INTO MY RENTED HOUSE OR APARTMENT?

IT IS AGAINST THE LAW FOR YOU TO PREVENT YOUR LANDLORD FROM COMING INTO YOUR RENTAL UNIT TO MAKE REPAIRS, DECORATE, MAKE ALTERATIONS OR IMPROVEMENTS, OR SUPPLY NECESSARY OR AGREED UPON SERVICES. THE LANDLORD MUST GIVE YOU WRITTEN NOTICE 24-HOURS BEFORE S/HE COMES INTO YOUR RENTAL UNIT FOR THESE PURPOSES.

THE LANDLORD ALSO HAS THE RIGHT TO ENTER THE PREMISES IF YOU LEAVE FOR MORE THAN SEVEN DAYS WITHOUT LETTING THE LANDLORD KNOW, OR IF THERE IS AN EMERGENCY, WITHOUT GIVING YOU 24-HOUR NOTICE.

5. LANDLORD'S OBLIGATIONS FOR SAFETY AND REPAIRS

WHEN IS THE TENANT RESPONSIBLE FOR REPAIRS?

TYPES OF REPAIRS CAN BE BROKEN DOWN INTO THREE CATEGORIES:

- REPAIRS OF TENANT-CAUSED DAMAGE
- WEAR-AND-TEAR REPAIRS
- "MATERIAL" REPAIRS (E.G., BAD PLUMBING OR A LEAKY ROOF)

THE TENANT IS TYPICALLY RESPONSIBLE FOR THE COSTS OF ANY TENANT-CAUSE DAMAGE. BEFORE YOU HIRE ANYONE TO MAKE REPAIRS OR DO THEM YOURSELF, IT IS GENERALLY A GOOD IDEA TO LET YOUR LANDLORD KNOW BECAUSE S/HE MAY WANT TO BE INVOLVED IN THE PROCESS.

THE LANDLORD IS TYPICALLY RESPONSIBLE FOR ANY DAMAGE CAUSED BY WEAR-AND-TEAR. STILL, IT'S ALWAYS A GOOD IDEA TO MAKE REQUESTS IN WRITING IF YOU WANT YOUR LANDLORD TO MAKE ANY REPAIRS TO DAMAGES CAUSED BY WEAR-AND-TEAR.

"MATERIAL" REPAIRS INCLUDE REPAIRS TO BAD PLUMBING OR A LEAKY ROOF. BECAUSE THESE TYPES OF REPAIRS ARE CENTRAL TO THE HEALTH AND SAFETY OF THE PROPERTY, YOUR LANDLORD HAS AN OBLIGATION TO TAKE CARE OF THEM AS SOON AS POSSIBLE.

FOR MORE INFORMATION ON HOW TO REQUEST THESE TYPES OF REPAIRS, SEE THE NEW MEXICO RENTER'S GUIDE SECTION ON WHAT TO DO WHEN REPAIRS ARE NEEDED.

WHAT ARE MY RIGHTS IF I REQUEST REPAIRS AND THE LANDLORD DOESN'T DO THEM?

MAKE SURE TO HAVE ALL REQUESTS FOR REPAIRS IN WRITING. IT'S ALSO A GOOD IDEA TO TAKE PICTURES OF ANYTHING NEEDING SERIOUS REPAIRS IN CASE THERE IS A DISPUTE LATER ON.

IF A LANDLORD FAILS TO RESPOND IMMEDIATELY TO A HEALTH OR SAFETY VIOLATION, YOU MAY BE ABLE TO GET ASSISTANCE FROM THE LOCAL HOUSING AUTHORITY OR CODE ENFORCEMENT OFFICE.

FOR MORE INFORMATION ON HEALTH AND SAFETY VIOLATIONS AND PHONE NUMBERS FOR CODE ENFORCEMENT OFFICES THROUGHOUT NEW MEXICO, SEE THE SECTION TITLED "HEALTH AND SAFETY VIOLATIONS" IN WHAT TO DO WHEN REPAIRS ARE NEEDED.

6. EVICITION

I THINK I MAY HAVE BEEN UNFAIRLY OR ILLEGALLY EVICTED.

THERE ARE A NUMBER OF WAYS IN WHICH A LANDLORD MAY LEGALLY EVICT TENANTS. FOR EXAMPLE, IF YOU HAVE VIOLATED THE TERMS OF THE LEASE, COMMITTED A CRIME ON THE PROPERTY, OR REMAINED IN THE RENTAL UNIT BEYOND THE TERMS OF THE LEASE, THEN THE LANDLORD MAY HAVE THE RIGHT TO EVICT YOU. HOWEVER, YOUR LANDLORD STILL MUST GIVE YOU PROPER NOTICE OF THE EVICTION BEFORE YOU CAN BE LEGALLY FORCED OFF OF THE PROPERTY. FOR MORE INFORMATION ON REASONS YOUR LANDLORD MAY EVICT YOU AND PROPER NOTICE, SEE THE NEW MEXICO RENTER'S GUIDE SECTION ON OBLIGATIONS OF LANDLORDS AND TENANTS FOR SAFETY, MAINTENANCE, & REPAIRS.

EXAMPLES OF ILLEGAL EVICTIONS INCLUDE RETALIATORY EVICTIONS AND LOCK-OUTS.

RETALIATORY EVICTIONS ARE SITUATIONS IN WHICH THE LANDLORD SEEKS TO *PUNISH* THE TENANT AFTER THE TENANT TRIED TO PROPERLY ENFORCE HIS OR HER RIGHTS. AN EXAMPLE OF AN ILLEGAL RETALIATORY EVICTION WOULD BE A SITUATION IN WHICH THE LANDLORD TRIES TO EVICT THE TENANT *WITHIN SIX MONTHS* OF A TENANT JOINING A TENANT'S ASSOCIATION, ASKED FOR REPAIRS, OR HAVING A CODE INSPECTOR COME OUT TO LOOK AT THE PROPERTY.

LOCK-OUTS CAN BE ANOTHER FORM OF ILLEGAL EVICTION. IF THE LANDLORD HAS FAILED TO FOLLOW PROPER EVICTION PROCEDURES THROUGH A COURT ORDER, THE LANDLORD CANNOT PREVENT YOU FROM USING THE PROPERTY BY CANCELLING UTILITIES OR PHYSICALLY PREVENTING FROM GOING INTO THE RENTAL UNIT. IF THE LANDLORD DOES A LOCK-OUT WITHOUT GOING THROUGH THE COURT SYSTEM AND SERVING YOU WITH NOTICE, YOU SHOULD SEEK LEGAL ADVICE AS SOON AS POSSIBLE.

FOR MORE INFORMATION ON ILLEGAL EVICTIONS AND WAYS YOU MAY BE ABLE TO PROVE AN ILLEGAL EVICTION, SEE THE NEW MEXICO RENTER'S GUIDE SECTION "ILLEGAL EVICTIONS" UNDER MOVING OUT.

THIS BASIC QUESTION-AND-ANSWER FORMAT IS ADAPTED FROM A COMPREHENSIVE RENTER'S GUIDE, WHICH CAN BE FOUND ON THE NEW MEXICO LEGAL AID WEB SITE:

[HTTP://WWW.LAWHELPNEWMEXICO.ORG/?Q=CONTENT/NEW-MEXICO-RENTERS-GUIDE-ENGLISH](http://www.lawhelpnewmexico.org/?q=content/new-mexico-renters-guide-english)