

Apartments

Where to look • What to rent • How to bargain

Read 'em your rights

How can renters best protect themselves?
By knowing the law

By Marcy Mason

Many renters feel powerless when they find themselves in conflict with, or being badly treated by, their landlords. After all, they figure, whose building is it, anyway?

But when you sign an apartment lease, you don't sign away your constitutional rights. In fact, in some communities, you actually acquire legal clout that will help you in dealing with your landlord, no matter how big he is or how little you feel by comparison.

Nevertheless, many tenants remain at a distinct disadvantage in disputes with their landlords simply because they are unfamiliar with their rights.

"The average tenant doesn't know the law," says Douglas Pensack, field director of the Illinois Tenants Union, a private, nonprofit advocacy group founded in 1986 as an outgrowth of the now defunct Tenants Organization of Evanston. Pensack, along with a staff of three others (including two attorneys), seeks to fix that.

True, only three municipalities in the Chicago metropolitan area have specific landlord/tenant ordinances: Chicago, Evanston and Mt. Prospect. Evanston's is the oldest, dating to 1975. Mt. Prospect enacted its law in 1983. And in 1986, the Chicago Residential Landlord and Tenant Ordinance, the successor to two earlier laws, was passed by the City Council.

But other communities are subject to Illinois law, which has regulations governing such matters as security deposits, discrimination and evictions.

In addition, broader housing regulations exist in some municipalities such as Oak Park,



Steven Fabry (standing), an attorney for the Legal Assistance Foundation of Chicago, discusses a case with supervising attorney William Wilen. The foundation provides free legal advice to low-income people.

which enacted a fair housing law in 1968. Parts of its statute help protect the residents of the village's 9,000 rental units.

"Some of the provisions of the law pertain to landlords and tenants. Oak Park laws can be more restrictive than the state's," says Sherlynn D. Reid, director of community relations for the village. (Case in point: As of June 1, all buildings in Oak Park with four or more units will be required to pay interest on security deposits. State law requires the same only of multi-unit dwellings of 25 or

more.)

It's up to you

"The laws are basically tenant-actuated," explains Pensack. "In order to have the right, a tenant must initiate action. The best protection a tenant has is to educate himself. Don't assume the landlord has all the power and the tenant has none. So often renters have a defeatist mentality. Landlords are used to getting their way by forced intimidation. Tenants need to scrutinize the rules and hold landlords to them."

Pensack estimates that the Illinois Tenants Union talks to 6,000 renters annually. The group primarily assists tenants with legally terminating leases, deducting rent to pay for repairs and, to a smaller extent, dealing with eviction problems. The tenants union also routinely inspects dwellings at the request of tenants.

"Ninety to 95 percent of the buildings we inspect throughout the city are in material noncompliance with the building code," says Pensack. "If we identify that building code violations exist in the apartment and the building's common areas, we submit a written notice and demand repairs." According to one of the provisions of the Chicago ordinance, "if a landlord fails to repair the property in 30 days, the tenant has the right to terminate the lease," says Pensack.

Similarly, he notes, "when a tenant rents, he has a legal expectation that the apartment or building he lives in will be in substantial conformity with the legal code. When the warranty of habitability has been breached, the tenant has the right, under Illinois law, not to pay full

money for not receiving full service" (in other words, to withhold part of the monthly rent).

"Specific procedures [on withholding rent] are expressed in Chicago's ordinance," says Pensack. "The state does not have specific procedures."

'Reasonable' deductions

Steven Fabry, senior attorney for the Legal Assistance Foundation of Chicago, likewise advises that withholding rent for repair-related problems is permissible

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Rights

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under the Chicago ordinance. Landlords must be served with a 14-day notice stating the percentage of rent to be withheld if the problem is not fixed.

"The percentage must be reasonable in proportion to the rent," says Fabry. "For example, one could deduct 50 percent for no heat in the winter, 25 percent for no front door locks, 5 percent for a stopped sink, etc. On that basis, it is legal to withhold rent."

Fabry, who works primarily with housing issues, is one of 75 attorneys employed by the foundation, a federally funded law firm that provides free legal services to low-income people in the city. For those who qualify, the foundation will assist tenants with housing problems of all types.

"All buildings within the city with more than six units must comply with the Chicago landlord-tenant ordinance," says Fabry. He stresses that the "ordinance will trump any conflict that arises between the lease and the ordinance." That is, clauses in a lease that are in opposition to parts of the ordinance are unenforceable, even if a tenant has agreed to them.

For example, if the lease states

a tenant owes a \$25 late fee if the rent is not paid by the first of the month, the stipulation will not stand up; the Chicago ordinance allows only a \$10 fee, assessed monthly.

Get the facts

Of course, you need to know the provisions of the ordinance before you can contest your landlord's actions or your lease. There are several ways to get it.

In the city, a copy of the Chicago ordinance is supposed to be attached to each lease for an apartment in a building that it covers—that is, one of six or more units. Check your records to see if you received one. If not, copies are available at City Hall.

The Chicago Council of Lawyers, the Council's Fund for Justice and the Legal Assistance Foundation of Chicago jointly publish the Tenant-Landlord Handbook. The 42-page manual, which can be obtained at many bookstores (or from the Chicago Council of Lawyers, 220 S. State St., Suite 800, Chicago 60604, for \$9.95 including postage), says it seeks "to improve the manner by which disputes between landlords and tenants are settled."

The handbook explains the ordinance's provisions and includes a list of resources available to tenants (and landlords) and sample letters tenants might want to send to landlords regarding security deposits, repairs and other matters.

Also keep in mind that all leases are not created equal. Most leases are written from the landlords' vantage point, so you should try to persuade your landlord to use the standard lease agreement written by the Chicago Council of Lawyers (included in the handbook and available separately from the council). In accordance with the Chicago ordinance, it protects both tenants and landlords alike.

In the suburbs

Outside the city, the typical source for tenant assistance can be found at a city or village hall.

In Schaumburg, where the renter population is close to 60 percent, Pat Luehring, director of health and human services, says that although no tenant-landlord ordinance currently exists, he anticipates one will eventually be adopted.

Luehring worked for Mt. Prospect when its ordinance was passed. "Schaumburg is relatively new in terms of construction. From my experience, rental disputes stem from older units," says Luehring.

Schaumburg does, however, have a strict housing ordinance, he says. "We intervene if there's a problem such as no heat. Strict fines can be enforced."

Officials in Evanston, the pioneer in passing residential landlord-tenant ordinances, say half its housing is rental property. The city's housing planner, Bill Povalla, is the first contact for most tenants with complaints. "I

tell renters what the ordinance does," he says. "I'm not a lawyer and don't attempt to give a legal opinion. I just lay out their options."

Before disputes reach the courts, Evanston tenants have another alternative, the Evanston Neighborhood Justice Center. The center, which currently devotes 20 percent of its work to resolving landlord-tenant conflicts, acts as a third-party mediator. The free service is available to both landlords and tenants, with the requirement that one of the two resides in Evanston.

Advice for tenants

A number of other tenant and community organizations provide free help for renters. The largest is the Metropolitan Tenants Organization, a Chicago-area coalition founded in 1981 to organize, educate and empower tenants to have a voice in decisions affecting the affordability and availability of decent and safe housing.

Tim Carpenter, the organization's executive director, describes its programs as extensive. "We distribute information to tenants, conduct workshops, work with social service agency staff members, improve code enforcement, prevent discrimination and retaliation by landlords, in addition to addressing other tenant issues."

Here are a few pointers the organization has for renters when signing leases:

- Even though, legally, leases

Where tenants can go for help

Here are some organizations apartment renters can turn to for help:

- Metropolitan Tenants Organization: 549-1986.
- Illinois Tenants Union: 478-1133.
- Lawyers' Committee for Better Housing: 274-1111.
- Legal Assistance Foundation of Chicago: 341-1070.
- Chicago Department of Housing, Fair Housing Division: 922-7925.
- Evanston Neighborhood Justice Center: 708-866-2920. ■

do not have to be written out in written leases do offer the advantage of proof of the landlord-tenant agreement.

• The tenant and landlord must initial and date all clauses that are crossed out or altered.

• Renters should not sign any portion of the lease they do not agree with. Once a lease is signed, the terms are binding.

• After signing, renters should always get a copy of the lease that includes the changes agreed upon. ■



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