

MAINE TENANTS JUSTICE LEAGUE



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The Truth About Tenants' Rights in Maine

How to buy more time to move

A Supplemental Guide to
Pine Tree Legal Assistance Handbook
“The Rights of Tenants in Maine”
(included as a free bonus)

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**This book provides a basic general overview
of the eviction process in Maine
and how to buy yourself more time to move.**

**The information provided in this book is not legal advice.
If you need legal advice, seek the help of a licensed attorney.**

Introduction

The purpose of this book is to help you defend yourself against an eviction lawsuit without hiring a lawyer in Maine state courts.

Maine Judicial Branch's Annual Reports show a 30% spike in recent statewide evictions (forcible entry and detainer cases):

2010 → 4717 cases

2015 → 6177 cases

Source: http://www.courts.maine.gov/reports_pubs/reports/annual_reports/index.shtml

Although this book cites Maine laws and court procedures, the basic legal principles apply to evictions in every state in the United States.

Recent statistics show 99% of Maine landlords are represented by a lawyer during eviction hearings but 99% of tenants do not have a lawyer.

Statistics from other states show similar numbers with little deviation.

Lawyers from Pine Tree Legal Assistance are usually available free of charge during eviction hearings but they seldom help tenants because they:

- 1) don't know the facts of your case,
- 2) have too many cases to defend that day,
- 3) don't believe your story or defense arguments,
- 4) have a legal conflict of interest with your landlord or his attorney
- 5) they simply don't want to help.

This book is written for tenants who do not have a legal education, legal skills or experience to go to court alone or who do not understand what the court requires them to say and do.

If you hire a private lawyer, you will probably need to make a cash payment of \$1000 or more before the attorney will do any work or speak

with you about your legal options. Attorneys typically charge \$150/hr or more plus an ‘appearance fee’ to appear at your court hearings, plus other charges.

You can expect to spend at least \$3,000 or more on legal services for a private attorney to fight your eviction, ***not including*** all court filing fees, copy fees and printing and postage costs for your legal filings. ***Your final legal bill can easily exceed \$10,000.***

If you hire a private attorney to defend you, **you are responsible for everything** the attorney files and does not file into court. The attorney is acting *on your behalf but he cannot speak for you*.

***Important Note* You are responsible to recognize and correct all legal mistakes your attorney makes while defending your lawsuit.**

You are required to pay all court filing fees for every document filed into court *unless* you are granted a court waiver which you can request by filing an ‘[Application to Proceed In Forma Pauperis](#)’ with an ‘[Affidavit of Income and Assets](#)’ showing your household income is at or below federal poverty levels.

- ✓ Even if the court waives your payment of court filing fees you are still required to pay all legal and other fees charged by your attorney.
- ✓ If you hire an attorney but cannot pay your legal fees, your attorney can legally withdraw from your case because you cannot pay his fees.
- ✓ The attorney’s withdrawal from your case **will not stop** ‘due process’ from continuing according to [Maine Rules of Civil Procedure](#).
- ✓ If you cannot find an attorney or someone else to help you file the proper papers at the right time, you will lose your case and your right to appeal any court orders entered against you.

If you find a good attorney who files all the right paperwork at the right time and you always pay your legal fees, **you will still lose your case**.

Why? Because you ***do not legally own the property*** you are renting.

The Legal Truth

Before you go to court, you must understand the *only information* a court will listen to during eviction hearings is about ***which person has the legal right to have physical possession of the property.***

All mortgage loans, real estate property taxes and rental payments are actually 'rent' payments made to the owner of the property for the **legally revocable privilege** of living on their land or in their building for a period of time at the owner's convenience.

If you are a 'homeowner' with a mortgage loan and real estate taxes, ***you have no legal right to possess the house and land where you live until you pay the mortgage loan in full or get a mortgage discharge and obtain allodial title on the land.***

If you are a 'homeowner' who does not have a mortgage loan but you pay 'lot rent' to an individual or real estate property taxes to the town, ***you have no legal right to possess the land*** where your home sits; ***your only possessions are the debt-free buildings and structures*** on the land.

If you are a tenant who pays rent to an individual or corporation for your home, ***you have no legal right to possess the unit, building or land where you live.***

If you are a **resident of a hotel, motel** or other establishment that rents rooms on a daily or weekly basis which provides cleaning and other services, **you are not a legal 'tenant' and are not allowed to have a trial** under eviction laws. The hotel or motel has a legal right to forcibly eject you with only a few minutes' notice and by use of police force if necessary.

Tenants never legally own their home so they will always lose an eviction hearing.

If that's true, why should you go to court?

Because you have a legal right to enjoy ‘due process of law’ before you lose your home, but ‘due process of law’ is just a legal way of saying the landlord must jump through all the required legal hoops before he can kick you out of your home.

Basically, the landlord must go through the proper legal ‘process’ that is ‘due’ if he wants to regain physical possession of his private property.

If your landlord does not follow ‘due process of law’ during your eviction, will you win the case? **No, because you are not the legal owner of the house or land where you live.**

During an eviction case the only victory a tenant enjoys is ***more time to move out.***

If this is all true, what is the purpose of an eviction hearing?

An eviction hearing gives you a chance to offer facts and evidence about your landlord or housing situation that may reduce any final negative orders against you or may buy you more time to find another place to live.

The Bottom Line

You ***will*** have to move, ***sooner or later.***

How long will it take to physically force you out of your home?

In Maine, your landlord can have you removed by police *as soon as 9 days after the date of your court hearing* or as much as 6 months or more; it all depends on how you respond to the landlord’s and court’s legal papers.

The landlord **must** use the court and police to remove you from your home so the time you have to move depends on what you do.

Your First Steps

First, you need to decide if you want to live in your current home any longer and if you are willing to do what is required to stay there.

The courts move very fast processing evictions so you will be lucky to get another month. Don't fool yourself into thinking you are going to win more than another month or two because you probably won't.

Be honest with yourself about your ability to read and understand the laws and if you can truly follow all rules of civil procedure until the final order.

You must understand that rules of civil procedure are critical because they outline the legal process that is due when anyone files any court case.

If you do not follow the rules of civil procedure as they are written, you will quickly lose your case and your rights to appeal any adverse orders.

The rules tell everyone what needs to be done, how it needs to be done, when papers need to be filed, who needs to receive copies, how they need to receive their copies, and other important factors related to lawsuits.

You must understand the rules are not the laws.

The rules outline the way you enforce your rights under the laws (statutes) and constitutional protections.

The rules and laws are always changing so you must do your own research in your own state before you attempt to respond to legal papers.

The law is based on words so always be careful what you write. The smallest mistake can cause huge legal problems. Every lawsuit is won or lost by the paperwork filed by each party.

Lawsuits are based on the quality and weight of facts and evidence which must be filed with the court; if you don't show evidence, you will lose your case.

Eviction lawsuits are almost impossible to win for the tenant.

There are very limited circumstances that can buy you more time to move but those circumstances must be described with very specific legal details.

Do not ask the judge or court staff to tell you what information to file because they will refuse to help you by saying they are not allowed to give you 'legal advice' (which means applying the law to your situation).

Legally, only you and your attorney can apply the law to your specific situation and make decisions on how to proceed next. Anyone else can only give you legal information and resources to find legal information; applying the legal information to your situation is completely up to you.

However, even if you hire an attorney to apply the law to your situation and represent you in court, ***the attorney cannot enter facts or evidence into the court record.*** All facts and evidence **must be offered by you and your witnesses**, either in person or writing signed by a notary.

If you have witnesses with important facts and evidence, those witnesses must be at your court hearing with you and they must bring all the evidence you want to file with the court including a copy for the court and your landlord. You are responsible to pay for those copying charges.

If your witnesses are government employees, usually you must have them served with a subpoena to force them to attend your court hearing. You must purchase the sealed subpoena form from the Court Clerk's office and read and follow the rules of procedure about proper service of the subpoena.

Under Maine rules of procedure, a subpoenaed witness is legally allowed 7-14 days advance notice before being required to attend any court hearings but you cannot buy a subpoena for your eviction case until the landlord files his complaint against you which opens the case.

Under Maine eviction rules, the landlord does not need to file the eviction complaint ***until 24 hours before your eviction trial.***

Under Maine rules of procedure, if you want to subpoena a witness, you must:

1. buy a subpoena,
2. fill it out properly,
3. have it served properly by someone other than yourself,
4. pay your witness for their time and travel as required by the rules,
5. give witnesses enough time to gather and organize the evidence they need to bring with them and make arrangements with their job and family to attend the court hearing, and
6. give witnesses the required 7-14 days advance notice to attend
 - a. *a witness is not required to appear at a hearing if they are not properly served with the subpoena.*

As you can see, under Maine rules, it is impossible to subpoena any witnesses for an eviction case if the landlord does not file the complaint until 24 hours before the trial date.

If you do not have any witnesses at court to testify about the facts of your case, you will lose your case and will not have important facts in the record for an appeal.

How do you win your eviction case without witnesses?

You don't, unless you have video and audio evidence to submit to the court, but that evidence must be authenticated by the witnesses on the recordings.

As you can see, preparing for and winning an eviction case in Maine is difficult because the laws and rules that govern housing conflict with rules of civil procedure.

Hiring an attorney will not change the laws and rules. Tenants do not own their homes and will always be evicted no matter what they say or do.

Preparing for Court

How do you prepare for court if you know you're going to lose?

You use the rules of procedure to buy more time.

Even though you will eventually lose the eviction ‘on the merits’ (facts) of the case (because you do not own the property), you can win more time by applying the rules of procedure to your advantage.

As was mentioned earlier in this book, the rules of civil procedure are critical to every lawsuit. Many lawsuits are won or lost because one of the parties violated the rules of procedure.

Also mentioned earlier in this book was the fact that every lawsuit is won or lost on the quality and weight of the legal paperwork and evidence.

If you have a legal disability or don't speak or read English very well that prevents you from reading or understanding the laws and rules, you will need to notify the court as soon as possible so the judge will make 'reasonable accommodations' for you to participate in your court hearings.

Sometimes asking for reasonable accommodations can delay the court hearing so the court can have the proper translator or item available.

If you don't submit evidence or follow rules of procedure, you will lose your case; the opposite is also true: if your landlord doesn't submit evidence or if he doesn't follow the rules of procedure, he will lose the case (but he can refile the case immediately until he does it right).

When challenging the landlord's paperwork, it's your responsibility to notify the court what the laws and procedures say and how your landlord violated those laws and procedures.

If you don't know what the laws and procedures say, you won't know what to tell the judge during your eviction trial and you will lose your case.

If you hire an attorney, whether you pay the attorney or not, you won't know if your attorney violated the rules of procedure if you don't know what the rules say and what your attorney is supposed to do.

Your attorney can only do what you tell him to do so you need to understand what the laws and rules say so you know how to guide your attorney during your case and so you can correct any mistakes he makes.

The court will always allow you to correct mistakes in your paperwork as long as you file corrections within a reasonable time after the original.

You don't need to type your legal paperwork if you don't have access to a printer or computer, but your paperwork must be easy to read, neat and signed properly.

If you have an affidavit (statement of facts) to submit, you must get it notarized by a notary at the time you sign the document. The court clerk will notarize only the forms they created and give you at the clerk's office.

If you write your own affidavit you must get it notarized by a private notary before filing it with the court.

If you have any documents you want the court to look at during your trial you must bring 3 copies to court: *1 copy for the judge, 1 copy for the landlord and 1 copy for you.*

If you made complaints about your housing or landlord to your local code enforcement officer, public health officer, social worker, case manager, or anybody else, those people must appear at the hearing to testify about their talks with you and what they know from first-hand experience. Even though you may have written correspondence with them, you cannot speak for them so you must ask them to appear on your behalf.

You can ask witnesses to sign affidavits about what they know, but if they do not attend the court hearing the judge and your landlord's attorney will not be able to ask them any questions about the statements they make

in the affidavit. If the affidavit cannot be verified by speaking with the person who signed it, the court will probably reject the affidavit as ‘*hearsay*’. All of your witnesses must personally attend your court hearings.

If you owe your landlord any back rent you should bring the full amount with you to the court hearing or be willing to enter into a payment arrangement if the landlord is willing to withdraw the eviction. The landlord is not required to accept your payment and doesn’t need a reason to continue with the eviction.

Despite popular belief, the landlord can still evict a family with young children during the winter months in Maine. Laws in each state are different so check your state laws for current information.

When you are gathering and organizing your evidence, if you have any audios, videos or photos to show the court during your hearing, ***you need to print 3 copies of the photos or compact disc and bring a computer or other device to play the audio and video files.***

Call the court to find out what types of electronic equipment they have available during your trial (tv, vcr, dvd player, etc).

Copy and print 3 copies of all your documents related to your case including the written lease, any subsidized housing contract, all rent receipts, email and text messages between you and your landlord and other people involved, Facebook and Twitter posts and anything else you can print for evidence to prove your case.

Once you gather all of your evidence and organize it according to date, put one copy of the pile of paperwork into a folder or binder to bring with you to court and put the other two piles into envelopes to give to your landlord and the judge.

If you hire an attorney, he can only submit paperwork and evidence to the court that you give to him so it is important to gather everything that you believe is relevant to your case and keep it organized by date.

Your landlord must give you either a 30-day or 7-day written notice to leave, or he can combine both of these into one notice. Any eviction

notice must advise you of your right to contest the eviction in court. This is called a "Notice to Quit."

When you receive the original eviction notice from your landlord, read it slowly and carefully at least three times and make sure all of the information is correct including your name and unit number.

When you receive the Notice to Quit from your landlord, you can include it in your pile of evidence or you can make a special folder or binder for his legal paperwork and the legal papers you will receive from the court. The court pays very close attention to dates so it is best to organize all of your papers by date for quick reference.

Your landlord can evict you with 30 days' notice for no reason at all with a few exceptions: You may be able to stop the eviction if your landlord is evicting you because of 'retaliation' (but only if you owe back rent) or 'illegal discrimination' (if your landlord knows you or one of your family members are disabled)

Pine Tree Legal Assistance Handbook clarifies that the *eviction notice must not terminate the tenancy until the last date for which rent has been paid, or later. For example, if your rent is paid through the end of June, your notice period cannot end before June 30th and the notice must give you a full 30 days. A notice ending the tenancy on June 30 must be given to you no later than May 31.*

If the eviction notice does not follow these rules, you may be able to stop or delay the eviction if you tell the court about those defects.

Your landlord must have a reason to evict you with a 7-day notice and clearly state those reasons in the notice to quit.

The reasons must be one of these:

1. You seriously damaged the apartment and have not repaired or paid for the damage.
2. You are a 'nuisance' to other tenants or neighbors. (for example: You instigate fights with your neighbors, don't let them sleep with loud noises or music, or destroy or steal their property.)
3. You made the apartment unlivable or unfit to live in.

4. You changed door locks and refuse to give your landlord a key.
5. You are 7 days or more behind in rent.

Rules of procedure and eviction laws are very clear about the process your landlord is required to follow when he wants to evict you for non-payment of rent.

If the reason is that you have not paid your rent, the notice must include these two sentences in Maine eviction notices:

“If you pay the amount of rent due as of the date of this notice before this notice expires, then this notice as it applies to rent arrearage is void.”

“After this notice expires, if you pay all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually paid by the landlord before the writ of possession issues at the completion of the eviction process, then your tenancy will be reinstated.”

If the eviction notice for nonpayment of rent does not make the two statements above, you need to make the court aware of that defect. If the eviction notice indicates an address or unit that is not yours, notify the court of that defect; you may be able to force the landlord to start the process from the beginning again.

Regardless if the eviction notice has any legal defects, you must attend the court hearing if you want to buy more time to move.

At Court

In Maine courts, when the court hearing begins and the judge enters the courtroom, s/he will first ask which cases have been resolved by agreement so those cases can be closed first, and then s/he will ask which

cases need mediation and the mediator will begin meeting with the parties in a private conference room.

Tenants who do not agree with the eviction must attend a private confidential mediation conference with the landlord and a neutral mediator appointed by the court on the day of your hearing before a trial is held.

If the court docket has a lot of cases to be heard on that day, you may be lucky enough to have your case rescheduled for the next eviction date which will buy you at least another week or more, but if you don't appear at the hearing you will lose by default (because you didn't appear or object).

After you attend mediation, if you cannot come to an agreement with your landlord, you will proceed to a trial later that day after other cases have been heard.

The trial is the proper time to tell the court your side of the story, submit your evidence and have your witnesses testify. If the other cases being heard before yours take too long and if you have a lot of witnesses to testify, you may be able to delay your trial for another week or more if you attend the hearing and are prepared for trial with evidence and witnesses.

The court is required to provide you with 'due process' of law which means giving you a fair opportunity to present your evidence and witnesses without being rushed for time. You also have a right to ask your landlord and his witnesses as many questions as you think are necessary to defend yourself or discredit what his witnesses say. When you ask witnesses questions is the proper time to ask the witness to authenticate the various pieces of evidence and then you ask the court to enter the evidence into the record as an exhibit.

If you have audios or videos to play for the court, you usually must bring your own electronic device to play those files. If you have digital evidence, you should bring a compact disc with those files to give to the

court and your landlord as evidence. Call your local courthouse and ask if they have equipment available to play those files during the trial.

After Trial

In Maine, you are not allowed to demand a trial by jury until after you lose the first eviction hearing and only if you disagree with the facts your landlord tells the court about your rent or other tenancy issues.

Even if you disagree with your landlord about the facts of the case, ***you do not own the building or land*** he is evicting you from and you will eventually lose the eviction.

Going to court with that knowledge gives you power to buy yourself as much time as you can by using the rules of procedure to delay the issuance of the 'writ of possession' which can be ordered 7 days after your initial court hearing in District Court, unless you file an appeal to Superior Court.

However, filing an appeal with Superior Court must be done before the writ of possession is ordered so you should plan to file the appeal as soon as you leave the courtroom and before you leave the courthouse.

In Maine, you are required to pay your current rent and all alleged rent arrearages to the court or the landlord before you are allowed to have a trial by jury in Superior Court. If you do not have your rent payment to make according to the rules, the court will deny your appeal and will issue the writ of possession without further delay.

If you disagree with the landlord about how much rent is owed, you need to tell the court there is a disagreement about the amount of rent you may owe and pay the undisputed amount to the court or your landlord.

If your housing is unsafe or needs serious repairs and you believe the rent being charged is too much, you need to tell the court there is a dispute

about the value of your housing and how much rent you should be charged.

Filing an Appeal

If you want to delay the issuance of the writ of possession, there are specific legal papers you must file with the court before you leave the courthouse, or if you cannot do it the day of your hearing for some reason you must file them within 7 days after the date of your court hearing.

After you receive a copy of the judgment for forcible entry and detainer by the court at the end of your trial, go to the clerk's window and ask for the following forms or print them now and have them filled out before you arrive at the courthouse:

[CV-206, Rev. 04/14 - Notice of Appeal and Affidavit Forcible Entry & Detainer](#)

[CV-067, Rev. 03/13 - Application Proceed w/o Fee](#)

[CV-191, Rev. 11/13 - Affidavit](#)

[CV-CR-JV-165, Rev. 07/15 - Transcript and Audio Order Form](#)

[CV-CR-JV-166, Rev. 07/15 - Motion for Transcript at State Expense](#)

You must complete and file all of these forms within 7 days of the date of your hearing to delay the issuance of the writ of possession. It is a good idea to file a '[Motion to Stay Issuance of the Writ of Possession](#)' with these forms so the court knows you want to delay the writ of possession.

If you want to demand a trial by jury, you must clearly state that in your notice of appeal with the basic facts that you disagree with that gives you the right to have a trial by jury.

In Maine, the court will probably deny your appeal, but that's not what you are trying to do. You are simply trying to delay the issuance of

the writ of possession to buy yourself more time to move. Filing the appeal paperwork is the only way to delay the writ of possession.

Maine courts have not allowed any tenant to have a trial by jury in Superior Court since 2010 or earlier so there is a good chance your appeal will also be denied.

If you don't attend your court hearing, file your evidence or file the notice of appeal, you will be forced out of your home within 10 days after the date of your court hearing.

If you file your notice of appeal on the 6th day after the court hearing, you can probably buy yourself a few more weeks if not a month or more.

Always remember the bottom line: you do not own the property so you will lose the final eviction hearing.

If you proceed with that fact in mind, you will be empowered to better protect yourself during and after the court hearing.

Pine Tree Legal Assistance Handbook

The Rights of Tenants in Maine

Source: <https://ptla.org/sites/default/files/tenants.pdf>



The Rights of Tenants in Maine

Find more easy-to-read legal information at www.ptla.org



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How To Use This Guide

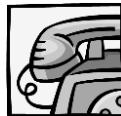
This guide gives you a quick look at Maine's landlord-tenant laws as of October 2015. The law is always changing. Also, you may need more information. If you have a problem with your landlord, ask for legal help. Call Pine Tree Legal or a lawyer you know.

If your rent is subsidized, read the "Subsidized Housing" section at page 26 first. **If you own your own mobile home and rent a lot**, go to "Mobile Home Parks" at page 26.

This handbook sometimes refers you to **Small Claims Court**. Call Pine Tree Legal or your local District Court for instructions.

Area Pine Tree Offices

| Office | Telephone |
|--------------|-----------------|
| Augusta | 622-4731 |
| Bangor | 942-8241 |
| Machias | 255-8656 |
| Lewiston | 784-1558 |
| Portland | 774-8211 |
| Presque Isle | 764-4349 |



Multi-lingual language line: 774-8211
TTY: 711



Tips Before You Rent

- ✓ **Read the lease or rental agreement carefully before you sign or put money down.** Ask about anything you do not understand. Look for hidden charges or penalties. If you sign the lease, you may be stuck paying those charges.
- ✓ If something is important to you, get it in writing. Don't count on an oral promise.

- ✓ Make a list of major problems in the apartment. Include the condition of walls, floors, windows, and other areas. Try to get the landlord to sign your list. This will help protect you when it comes time to move out.
- ✓ If the building was built before 1978, beware of possible lead-based paint problems. Owners of these older buildings must tell you of any known lead-based hazards and show you any relevant records before you rent. Your landlord must give you a form notice explaining the dangers of lead-based paint. He must also give you a government pamphlet called "Protecting Your Family from Lead in Your Home." (See more at page 9.)
- ✓ Find out who pays for hot water, heat, electricity, parking, snow removal, and trash disposal.
- ✓ Find the utility controls. Ask questions. Where is the thermostat? Who controls it? Where is the electric box? Where is the hot water heater?
- ✓ You have the right to know the energy costs for the living unit before you rent. If you will be paying an energy bill (such as electric or heating oil), ask the energy supplier for billings on your unit for the past 12 months. The company must tell you. Or ask to see the landlord's "Energy Efficiency Disclosure Statement." (Contact the Maine Public Utilities Commission 1 (800) 452-4699 for more information about this law.)
- ✓ Be sure that all utilities and appliances are working right. Make sure the landlord agrees to fix appliances, furnace and all other building systems.



- ✓ Bedbugs are becoming a major issue in some parts of Maine. It is against the law for a landlord to rent a living unit with bedbugs. If you ask about when the building was last treated and declared free of bedbugs, the landlord must tell you. (Read more at page 10.)
- ✓ Your landlord must show you a written "smoking policy." This tells you where smoking is prohibited and identifies any smoker-friendly areas. Your landlord can include this in the lease or give you a separate notice to read and sign. You have the right to know this information before you pay a deposit or commit to a rental contract.
- ✓ If you share rent, remember that the landlord can charge you for all of the rent if your roommates don't pay their share.
- ✓ Try to talk with another tenant about the building and the landlord.
- ✓ Check about off-street parking, public transportation, and stores. Try to check the neighborhood at night.
- ✓ Check to see that all the windows and doors can be locked and are not broken. Are there window screens?
- ✓ Your landlord's insurance probably does not protect you from damage or loss of your furniture or other property. Consider buying tenant's insurance if you want this protection.
- ✓ Be careful about putting money down to "hold an apartment." If you decide later not to rent it, the landlord may refuse to return your money. You can sue him in Small Claims Court, but this will take time. Also, depending on how the judge interprets your agreement, you may not get all of your money back. For example, the court may decide that you put the money down as a security deposit. (See section on security deposits at page 4.)
- ✓ If a landlord suggests that you buy a surety bond, instead of paying a security deposit, be careful. A few basic rules about surety bonds:
 1. You cannot be forced to buy one. It is your choice.
 2. You will not get back the money you pay for the bond, even if you owe the landlord nothing when you move out.
 3. Although a surety bond can save you money in the short-run, it may cost you more in the long-run if you leave owing rent or damages. The surety company can choose to sue you for the money it pays to the landlord under the bond.
 4. Buying a bond will not save you from getting a bad mark on your credit report, if you leave owing the landlord money. Contact Pine Tree Legal for more information.
- ✓ **Get something to keep your records in. Keep in your file:**
 - your lease or rental agreement
 - security deposit receipt
 - dated list of things wrong with the apartment
 - rent receipts (or cancelled checks)
 - landlord's address and phone number
 - all other papers about your tenancy

Types of Rental Agreements

Leases

The agreement you make with your landlord affects what rights you will have. You may sign a





written agreement called a lease. A lease lists the names of the landlord and tenant, the address of the apartment, the length of the lease, and the day the rent is due. Most leases contain much more than this. Read these "extra conditions" carefully and understand them before you sign. This handbook will give an idea of what to look for in a lease.

If you sign a lease, be aware that it sets out the rules you and your landlord agree to follow. For example, it will probably say whether the landlord can evict you before the lease ends, what reasons he must have, and what kind of notice he must give you. If the landlord is trying to evict you, a judge will look at what your lease says to decide the case. If something in a lease is grossly unfair to you, a judge **may** say that it can't be used against you. But **usually** your rights depend on what the lease says.

Note: If you have a written agreement that does not have a "lease term" (a specific amount of time you will be renting), then you have a "rental agreement," not a lease. Our advice to you is the same. **Read the agreement and understand it before you sign!**

A new statute, effective September 2011, clarifies that either the landlord or the tenant can choose to end the lease if the other party has "materially breached" the lease. This requires a written 7-day notice, served in-hand, or, after 3 good faith efforts, mailed by first class mail, with a copy left at the other party's home. Read more about landlord's duty to seek a court order before evicting a tenant at page 14 "Evictions."

The Maine Attorney General's office posts a "model lease" form that landlords and tenants can use for reference:
maine.gov/ag/dynld/documents/clg16.pdf

Tenancies at Will

When you rent without a lease, you become a "tenant at will." Maine law gives you certain rights we will tell you about here. For example, to evict you, your landlord must give you time after a written notice and must get a court order if you are still not out. Read more about this under "Evictions" at page 15.

Hotels, Motels, Inns, and Rooming Houses

Generally, if you are staying in a hotel or motel, you are not a tenant and do not have the rights of a tenant. A motel owner can evict you on short notice and without going to court.

If you live in a rooming house, are you a tenant? This is a gray area of the law. The owner may say that you are not a tenant because she has an "innkeeper's license" or runs a "lodging house." But there is more to it. If the owner acts like a motel owner by:

- providing clean sheets and towels
- cleaning your room
- signing guests in and out in a registry
- renting rooms by the day, rather than by the month

then you are probably not a tenant. But if the owner does **not** do these things, then he is probably a landlord, and you **do** have the rights of a tenant.

If you live in an inn or rooming house and you are not sure about your rights, call Pine Tree Legal (contact info. at page 2).

Security Deposits



What is a security deposit?

A security deposit is money you give to your landlord when you move in. Your landlord can use it to cover any



unpaid rent or damages. You may not use your security deposit to cover your last month's rent unless your landlord agrees.

NOTE: A **surety bond** is very different from a security deposit. If your landlord suggests that you buy a surety bond, read our tips at page 3.

How much can my landlord charge for a security deposit?

Your landlord cannot charge more than two times your monthly rent. If you live in subsidized housing, your security deposit should be much less. Check with your housing authority.

Does my landlord have to return my security deposit to me?

If you owe back rent or you have damaged your apartment, your landlord may deduct those costs from your security deposit. If you owe your landlord more than the amount of your security deposit, he may sue you in court.

Does my landlord have to pay me interest when returning my security deposit?

No, not unless you both agreed to this. If you live in subsidized housing, check your lease or ask the housing authority. Your landlord **may** have to pay interest on your deposit. (See page 26 for mobile home park rules.)

Can my landlord keep my security deposit to pay for routine upkeep?

No, your landlord **cannot** keep your security deposit for "normal wear and tear." Examples of "normal wear and tear" could be:

- a worn carpet
- chipped paint
- worn finish on wood floor

- faded or dingy paint

This means that your landlord cannot charge you for routine upkeep, such as periodic cleaning and painting.

The landlord can deduct the cost of fixing damages which are beyond "normal wear and tear." Examples of these damages could be:

- broken windows
- holes in the wall
- leaving trash or other items that have to be thrown away
- leaving your apartment so dirty that it's unhealthy or unsafe

If your apartment is damaged by a storm, a fire, or a vandal, tell your landlord right away. He cannot charge you for the repairs if you or your guests did not cause the damage. It is also a good idea to make a police report.

What kind of notice do I have to give if I am moving?

If you are a tenant at will (no written lease), you must give your landlord a 30 day written notice. The notice period should end on a rent day. You and your landlord can agree to a shorter notice period, if you agree in writing.



If you have a lease, read it to see what kind of notice you must give.

If you do not give the right notice, your landlord may try to charge you for time after you move. If you have a lease, she may try to charge you rent for the rest of the lease term. Again, this will depend on what the lease says.

Your landlord must try to re-rent your apartment as soon as she knows you have moved out. If she re-rents your apartment



right away, she can only charge you for the time you were there and the time it took her to find a new tenant. For example, your rent is \$500 a month and you moved out on the 10th day of the month without notice. Your landlord re-rents the apartment on the 15th of the month. You owe \$250, or half a month's rent. Your landlord may also charge you reasonable expenses for re-renting the apartment if you did not give the right notice.

Note: If you are moving out because your landlord has “substantially breached” the lease, the rules are different. You must give the landlord a written 7-day notice, served in-hand, or, after 3 good faith efforts, mailed by first class mail, with a copy left at the landlord's home. The notice should explain your intention to leave based on the landlord's failure to uphold his duties under the lease. If you follow these rules, then the lease ends, and you have no more responsibilities under the lease.

When does my landlord have to return my security deposit?

Your landlord must either return all of your security deposit or send you a letter telling you why he is not giving some or all of it back. He must send this letter to your “last known address.” Give your landlord your new address, or make sure your mail is being forwarded so that you will get the letter.

If you are a tenant at will (no written lease), your landlord must give back the deposit or send you the letter within **21 days** after you move out and return the key. **If you have a lease**, check to see what it says. If there is nothing in the lease about this, or if the lease gives more than 30 days, then your landlord has **30 days** to return the deposit. This is the legal limit.

What can I do if my landlord does not return my security deposit?

⇒Step One

Contact your landlord and ask her to give back your deposit.



⇒Step Two



If the 21 or 30 days has gone by and you still don't have the deposit, send your landlord a letter asking for return of your deposit within 7 days. Write that if your deposit is not returned, you will bring legal action. Your landlord should return your full deposit. (We have a form letter you can use. Call Pine Tree Legal.)

⇒Step Three

Sue your landlord in Small Claims Court.

Ask your District Court

clerk for a pamphlet explaining the steps. In your written complaint, ask the Court to order your landlord to pay you **two times** the deposit amount plus your court costs. The judge will order this unless the landlord can show at the court hearing that she had good reason not to return the deposit to you.



Note: If your landlord lives in your building and there are 5 living units or fewer, then you can still sue to get your deposit back but you cannot get twice that amount.

If I take my landlord to court, can he/she sue me?

Keep in mind before you sue that if you owe your landlord money, he will probably bring these claims against you to counter your claim for return of the deposit. So, if you owe him more money than he owes you, suing in court is probably not a good idea. On the other hand, if he sues you, you can



"counterclaim" for return of your deposit and for any other money he owes you.

Does my landlord have to keep my security deposit in any special account?

Yes. He has to keep security deposits in an account that is separate from his other accounts and safe from his creditors. This includes protecting your money from a lender who forecloses on the building and from a trustee in bankruptcy. If you ask, the landlord must tell you the name of the bank where the money is deposited and the account number.

What if my landlord doesn't follow these "separate account" rules for protecting my deposit?

You can take your landlord to court. If you win you can get:

- "actual damages" (your losses)
- \$500, or
- one month's rent,

whichever is greatest, plus your court costs. Also, the court can order the landlord to pay your lawyer's fees.

This right to sue started on June 1, 2010 for all deposits paid after that date. For security deposits paid before that date, you can sue your landlord if he violates the rules after October 1, 2010. (This law gives landlords an extra four months to bring pre-existing accounts into compliance.)

What if my landlord sells my building?

If your building is sold (or passes to a new owner for any reason), your landlord must give your security deposit to the new owner or give it back to you. If he gives it to the new owner, he must mail you a notice with that person's name and address and how much money was passed on to him. He can deduct charges for back rent or damages.

Remember, if you follow these tips you will have a better chance of getting your security deposit back.

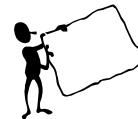
- Get a payment receipt and keep it.
- When you move in, make a list of the defects. Keep the list and give a copy to your landlord.
- Clean your apartment and take away all of your things, including trash.
- Take pictures or write down what is right and what is wrong with the apartment when you leave. Have a witness look over the apartment just before you move out. (He can testify in case you have to go to court).
- If you don't get the deposit back right away, leave your new address with the landlord (so he can send you your deposit).
- Try not to owe any rent when you leave.

Rent

Should my landlord give me a receipt when I pay my rent?

If you pay any of your rent in cash, the landlord must give you a receipt at the same time. The receipt must include:

- the date
- the amount paid
- your name
- what the payment was for
- the landlord's signature



If you live in a building with 5 apartments or fewer and your landlord lives there, he does not have to give rent receipts. If your landlord won't give a receipt, try to pay with a check or money order and keep your own records.



Can my landlord charge interest on a late payment of rent?

Yes. If you do not pay your rent within 15 days after it is due, your landlord can charge a late fee. The fee cannot be more than 4% of one month's rent. For example, if your rent is \$800 per month, the late charge cannot be more than \$32. **To charge a late fee, your landlord must tell you about it in writing when you agree to rent from him.**

General Assistance

Does my landlord have to accept general assistance (GA) rent vouchers?

Yes. Your landlord cannot refuse your rent just because the town is paying some or all of it. (read more about General Assistance in Maine)

What if the landlord refuses to take GA vouchers?

First, find out why your landlord will not take GA vouchers. Maybe the problem is that the town only pays by the week but your landlord charges by the month. Ask the town to pay by the month or to agree with your landlord on a payment schedule. If the town will not help, call the General Assistance Unit at the Department of Health and Human Services in Augusta. Their toll free number is **1-800-442-6003**. If that does not help, call your local Pine Tree Legal office (listed on page 2).

Your landlord cannot refuse to take GA simply because he doesn't like city vouchers. You can file a discrimination complaint with the Maine Human Rights Commission in Augusta: **624-6050**. Pine Tree Legal can help you to file a complaint.

Rent Increases

Can my landlord increase my rent?



Yes, if you are a tenant at will (without a lease). Your landlord must give you a **45 day written notice** of any rent increase. If your landlord does not do this, you have two choices.

1. You can refuse to pay the increase, **or**
2. You can pay under protest and later sue your landlord for the amount you were overcharged. You can ask the court to order the landlord to pay for your court costs and lawyer's fees. Or you can sue in Small Claims Court without a lawyer.

If you choose not to pay the increase, your landlord may try to evict you. See "Evictions" at page 15.

If you have a lease, the landlord probably cannot increase the rent during the lease term. Read your lease to find out if it says something different.

If you live in subsidized housing, your rent is based on your income. So, your rent can be raised or lowered if your income changes. Also, there are special "earnings disregard" rules if you start working. Read your lease. Then contact Pine Tree Legal if you think you are paying too much.

Can my landlord increase my rent if there are serious problems with my apartment?

No. If there are serious problems, which are unsafe or could make you sick, the landlord must fix the problems before she can charge more rent. For example, your landlord cannot increase your rent if there is no heat in the winter. If you or your guests have caused the problems, then your landlord can still raise your rent. For more information about heating your apartment, see "How Much Heat and Other Utilities Does my



Landlord Have to Provide?"

<http://ptla.org/how-much-heat-and-other-basic-utilities-does-my-landlord-have-provide>

Unsafe or Unfit Housing

Does my landlord have to keep my home safe and in decent condition?

Yes. Maine law gives tenants an "implied warranty of habitability." This means that your landlord must promise that your home is safe and fit to live in.

Examples of landlord violations:

- undrinkable water
- no heat or too little heat in the winter
- a combination of problems, such as leaking ceilings, unsafe heating system, broken windows, and roaches

The heating system should be able to heat your living space to at least 68°. (For more details, ask for our pamphlet "How Much Heat?")

What can I do if my home is not safe?

⇒Step One

Ask your landlord to fix the problem. If he does nothing, you may want to follow up with a **written** demand. Keep a copy of your letter.

⇒Step Two

Call your city hall or town office and ask about any housing codes that may apply to your building. If your town has a building code enforcement officer, you can ask him to look at your home and send the landlord a letter demanding that he fix any code violations. State law also requires each town to have a health officer, who can inspect and require that unhealthy conditions be remedied (or the building vacated). Also, each town must have a local plumbing inspector to enforce



state and local plumbing-related rules.

⇒Step Three

If you cannot get local help, you may be able to get some help, or other referrals, from these state agencies:

- Fire hazards:
State Fire Marshall's Office
Inspections Unit
626-3880 **TTY: 287-3659**
- Electrical wiring problems:
Senior Electrical Inspector
624-8519 (leave a voicemail for inspector); for general inquiries, call
624-8603 **TTY: 1-888-557-6690**
- Plumbing problems:
Plumbing Inspector
624-8639 **TTY: 1-888-557-6690**
- Wastewater, drinking water, and radon:
DHHS Division of Environmental Health
TTY: 1-800-606-0215
Wastewater program: **287-5689**
Drinking water: **287-2070**
Mold, radon, indoor air quality: **287-5676**
- Mold:
Office of Local Public Health: **287-6227**
Health Inspection Program: **287-5671**

Also, the non-profit agency Maine Indoor Air Quality Council (**626-8115**) is a reliable resource and posts useful information here: www.maineindoorair.org

What if I think there is lead paint in my apartment?

You can be tested or have your children tested for lead. Ask your family doctor or clinic about lead tests. If your child's test shows a very high level of lead, the lab will tell the Childhood Lead Poisoning Prevention Program in Augusta (see below). They can inspect your home for free and order your landlord to remove the lead. This program gives other help and information as well.



If you want to check the paint or water in your home for lead, ask your landlord for help or call one of these state agencies:

- The Health and Environmental Testing Laboratory at **287-2727** (Water testing)
- Maine State Housing Authority **1-800-452-4668** (Paint testing; they can also test for lead in soil where your child plays.)

Some Community Action Programs (CAPs) can also help you with dust testing.

For more information contact:

- Childhood Lead Poisoning Prevention Program, DHHS: **1-866-292-3474**
- Lead Hazard Control Program, MSHA: **1-800-452-4668**
- **Lead Hazard Prevention Program, DEP: 1-800-452-1942**

If you have a young child who has been harmed by a landlord's failure to tell you about known lead hazards, or failure to give you other required warnings (see page 2), he may be fined or ordered to pay you damages. Get legal advice.

For all places built before 1978, a landlord must give you 30 days advance notice before doing any repairs or renovations that disturb lead-based paint. This notice includes postings on all exterior entry doors and a certified mail letter to all residential units in the building. Or the landlord can post the notices and get a signed written waiver from an adult in each unit. The waiver must contain specific warnings. Your landlord can be fined up to \$500 for each violation of these notice rules. If you believe that you or your children have suffered harm because your landlord failed to notify you, you can report the violation to your local District Attorney or the Maine Attorney General's Consumer Protection Division: **1-800-436-2131**.

The purpose of this law is to make sure that you have the chance to protect yourself and your children from lead dust while the work is being done. Also, your landlord must use lead-safe practices so as to minimize the danger. Read more in our pamphlet: "What You and Your Family Should Know about Lead."

Bedbugs: What can I do to avoid them and get rid of them?

Bed bugs have become much more common in Maine. They are difficult to get rid of. As with other health and safety issues, the first step is to contact your landlord and ask him to have the building professionally treated. You and others in the building will also have to take steps to help combat the problem.

Before you rent:

It is illegal for a landlord to rent an apartment that he knows (or suspects) to have bedbugs. He must also tell you whether other nearby apartments in the building have bedbug problems.

Before you rent ask when the apartment and nearby units:

- were last inspected for bedbugs, and
- found to be free of bedbugs.

The landlord must give you an honest answer.

What happens if my apartment is infected with bedbugs after I move in?

First, you must tell your landlord right away. To create a record, it is probably a good idea to do this in writing. (Get a sample letter here.) After that, both you and your landlord must make efforts to fix the problem. Here is how it works:



- After you notify your landlord, he must inspect your apartment within 5 days.
- Next, your landlord must contact a state certified pest control expert within 10 days of inspecting and finding bedbugs.
- Then your landlord must take all reasonable steps to treat the problem, based on the expert's advice.
- Your landlord and the pest control expert will probably need access to your bed, furniture and other belongings. They must be respectful of your privacy but at the same time do whatever inspections are needed to take care of the problem. You need to cooperate to get rid of the bedbugs. Your landlord must tell you the costs of your participation in the process.

NOTE: Your landlord should always give you 24-hour advance notice before entering your apartment or sending pest control experts, unless it's an emergency. See "Landlord Entering Your Home" at page 25.

What if I can't afford to "cooperate?"

To help get rid of the bedbugs, you may be asked to move furniture, launder clothing and linens, or take other steps to assist in the process. If you cannot afford to do these things or are not able to do them, your landlord can go ahead with the necessary steps and charge you for any costs specific to you (such as moving your furniture or laundering your linens). If your landlord fronts these costs for you, after first telling you how much they will be, he can ask that you repay those costs over a 6-month period (or longer, by agreement).

What should I do if my landlord doesn't do anything to get rid of the bedbugs?

You can take your landlord to court. You can get at least \$250 or your "actual

damages" (whatever you lost). You must show that:

- you did not cause the problem;
- you gave your landlord oral or written notice of the problem when you learned about it;
- the landlord didn't take prompt steps to get rid of the bedbugs; and
- you did not owe the landlord any back rent when you gave the notice.

Note: If your landlord tries to evict you within six months of your complaint, the law may protect you. See "Retaliation Defenses" at page 17.

TIPS

- ✓ Make sure you have correctly identified the bug. You can send samples to the University of Maine Cooperative Extension's Insect Lab.
- ✓ Avoid picking up beds, mattresses and other old furniture off the street or from the dump.
- ✓ When moving to a new place from one with bed bugs, make sure that you are not bringing the bugs, or their eggs, with you in your belongings. (See article links below)

Here is a helpful resource on bed bugs, how to identify them, and how to get rid of them:

"Bed Bugs: University of Kentucky Entomology"
<http://www2.ca.uky.edu/entomology/entfact/s/ef636.asp>

Some Maine landlords have been using high-heat treatment as a remedy. (Landlords and homeowners should consult with a qualified, experienced expert.)



What can I do about mold?

If you think you have mold, ask your landlord to find and fix the water problem that is allowing mold to grow, then to fix any water damage. If this doesn't work, follow the steps at page 9. Approach your landlord again with findings from your local health officer and your doctor, if you can get them.

The state's Health and Environmental Testing Laboratory is no longer doing mold testing. Some private labs will do testing, but it is expensive.

For More Information Contact:

- ◆ Office of Local Public Health **287-6227**
- ◆ The non-profit agency Maine Indoor Air Quality Council (**626-8115**) is a reliable resource and posts useful information here: www.maineindoorair.org
- ◆ The federal EPA posts "A Brief Guide to Mold, Moisture and Your Home" here: www.epa.gov/iaq/molds/moldguide.html

Does my landlord have to provide smoke and carbon monoxide alarms?

Yes. All apartments must have working smoke and carbon monoxide alarms in or near bedrooms. Any carbon monoxide alarm in an apartment that needs to be replaced after January 1, 2016 must be replaced with an alarm that runs on electricity with a battery backup or on a single-use battery that will last for 10 years. In apartment buildings with more than three stories, all hallways must have smoke alarms. All new smoke alarms put in after October 2009 must plug into the wall and have a battery backup.

Single-family homes built or renovated after 1981 must also have smoke alarms. Any renovation that adds a bedroom must include a carbon monoxide alarm. If that renovation is done after January 1st, 2016 (or if an alarm required by this law needs to be

replaced after January 1, 2016), the new carbon monoxide alarm must run on electricity with a battery backup. All new smoke alarms put in after October 2009 must also plug into the wall and have a battery backup.

If you are deaf or hard-of-hearing, you may request a non-audible alarm. If your landlord refuses, you may put one in yourself and deduct the actual cost from your rent. (See "Can I fix the problem myself?" at page 13.)

Any smoke detectors located within 20 feet of kitchen or a bathroom containing a tub or shower must be photoelectric-type smoke detector.

Landlords may be fined up to \$500 for each violation of these rules.

Tenants should:

- Test alarms periodically
- Make sure the batteries are working
- Not disable alarms, and
- Notify the landlord in writing when an alarm is not functioning properly.

How do I know if my building has dangerous radon levels?

Radon is a gas you can't see or smell that can be harmful to your health. According to Maine DHHS radon is the second leading cause of lung cancer. By March 1, 2014, your landlord must test for radon in your building.. He must do this every 10 years at the request of a tenant, unless there is a working radon mitigation system. Whoever tests your building must be registered with the state's Division of Environmental Health at DHHS. (There are some exceptions for landlord-or tenant-conducted testing.) Your landlord must notify you in writing about the results of the most recent radon test when you enter into a rental agreement. If asked, the landlord must tell a



prospective tenant about the radon levels in the building. To help landlords comply, DHHS has issued a standard disclosure form: www.ptla.org/sites/default/files/Maine-radon-disclosure-info-renters.pdf

The landlord is not required to fix radon problems. A landlord who chooses to fix the problem must use a licensed radon mitigation person. If radon levels are over 4.0 picocuries per liter of air, a tenant may vacate the premises by giving a 30-day notice to the landlord.

Violation of these requirements can result in a \$250 fine per violation. Failure to supply the required notice also means that the landlord has violated Maine's "implied warranty of fitness for human habitation." Landlords must also report results to Maine DHHS.

For more information contact:

DHHS Division of Environmental Health
287-5676 TTY: 1-800-606-0215



Can I fix the problem myself?

Sometimes if a repair is not too major, you can "repair and deduct." You can fix the problem and deduct the cost of the repair from your next month's rent. Here are the rules:

1. Your problem must be one that makes your home unhealthy or unsafe. Examples:

- no heat or not enough heat in the winter
- unsafe drinking water
- falling ceiling
- unsafe wiring

2. You must be able to fix the problem for less than \$500, or half of your monthly rent, whichever is greater. For example:

- If your rent is \$800 per month, you can spend up to \$500 to do the repair.
- If your rent is \$1200, you can spend up to \$600.

- This amount is increased to two times your monthly rent if your building is in foreclosure.

3. You, your family, or your guests did not cause the problem.

4. Before you fix the problem, you must write a letter to your landlord. Send the letter by certified mail, return receipt requested. In the letter, ask your landlord to fix the dangerous condition within 14 days, or sooner if it is an emergency. Tell him that if he does not do the repair, you will have it fixed and deduct the cost from your rent. (We have a form letter you can use. Call Pine Tree Legal if you want a copy.) If your landlord offers to fix the problem, then you must let him into your home to do the repair. See "Landlord Entering Your Home" at page 25.



5. If you have the work done, both the work and the materials must be of good quality. If your problem is with the heating, plumbing, or electricity, you must get a licensed worker to do the repairs.

6. After the work is done, send the landlord a copy of the bill. Keep the original bill. Then you can deduct the cost from your rent payment.

Here are a few more "repair and deduct" limitations:

- You cannot use "repair and deduct" if your landlord lives in your building **and** there are fewer than 5 apartments.
- If you do the repairs yourself, you can deduct for parts and materials but not for your labor.
- Members of your immediate family cannot charge for labor either.





- You cannot hold your landlord responsible if anyone gets hurt doing the repairs.

What if the repairs cost more than \$500.00 or half my monthly rent (or 2x monthly rent if building is in foreclosure)?

You and your neighbors may be able to use "repair and deduct" together to fix a bigger problem. For example, your building might have a bad roof or furnace that costs a lot to fix. If you had 8 tenants who each pay \$800 per month, you could pay for a repair costing as much as \$4000 (8 x \$500).



Caution: We do not know of anyone who has tried this before in Maine. If you want to try a group "repair and deduct," try to talk with a lawyer first.

My landlord just stopped paying his utility bills. What can I do?

Your agreement was that the landlord would pay for utilities- such as lights, electric heat, fuel or water. Then he stopped paying. You can legally put the account in your name, pay the bill, and then deduct the cost from your rent.

If this doesn't work to make you even, you can sue the landlord for "actual damages" (your losses). The court can also order the landlord to pay the court costs and lawyer's fees.

Can I just refuse to pay my rent if my landlord won't fix things?

No. You will risk eviction and can still be charged for the rent while you are living there. Talk to a lawyer before you decide to stop paying rent.

Exception to the rule: If your apartment burns down or is so damaged that you can no longer live there (and it's not your fault),

you do not have to pay rent from the day you are forced out.

I have tried all of the things you have suggested but my home still is not safe. What about suing my landlord in court?

Warning your landlord of court action may be enough to get him to fix the problem. If not, you may either want to move or to sue.



To win a lawsuit, you must meet these tests:

- Your problem must be serious-- something that makes your home unsafe or unhealthy.
- You, your family or guests did not cause the problem.
- You must tell your landlord about the problem **in writing** within a reasonable time, and give her a reasonable time to get it fixed. (Telling the building manager or someone else who collects rent for the landlord may be good enough. But the best way to prove that your landlord knew about the problem is by giving her written notice and keeping a copy.) Get a sample form here.
- You should be fully up-to-date in your rent payments at the time you give the landlord written notice.

If your landlord does not fix the problem within a reasonable time after you give the written notice, talk to a lawyer about going to court or file a complaint in Small Claims Court yourself. (If you need quick action, going to Small Claims Court may take too long.)

At a court hearing the judge will decide whether your landlord has given you a safe



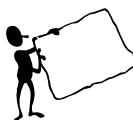
and healthy place to live. The judge may order any of these remedies:

- that your landlord fix the apartment
- that your rent be less until the landlord does the repairs
- that your landlord pay you back some of the rent you have paid

Can my landlord make me agree to live in a home that is unsafe or unfit?

No. A landlord cannot force you to accept unsafe or unfit housing. You can agree **voluntarily** to live with certain unsafe or unfit conditions. The agreement does not stand unless:

- it is in writing
- it says exactly what unsafe conditions you have agreed to live with
- it says exactly how much the rent was lowered because of the unsafe conditions



Learn more from our pamphlet: "How Much Heat and Other Basic Utilities Does My Landlord Have to Provide?"

Evictions

Can my landlord turn off my utilities or change the locks on my door or otherwise kick me out without first going to court?

No. It is illegal for your landlord to throw you out by force. Your landlord must get a court order before he evicts you. If your landlord tries to get around this by changing the locks, taking your property, or shutting off any of your utilities, he has broken the law. If you take him to court and ask for immediate help, the court may stop the landlord and order him to pay you for your losses or \$250.00, whichever is greater, plus your court costs. If you have a lawyer and

you win the case, the court can also order your landlord to pay your attorney fees.

NOTE: The electric company must determine if tenants are living in a place before cutting off service at the owner's request. If you agree to put the service in your name, the electric company cannot cut you off.

Does my landlord have to have a reason to evict me?

This depends on whether you are a tenant at will or have a written lease.

If you have a written lease, your landlord probably has to have a reason to evict you. This is also the rule if you live in **subsidized housing** or own your own home in a **mobile home park**.

If you are a tenant at will (no lease), your landlord can evict you without giving a reason. However, he must give you 7 or 30 days notice in writing. There are some exceptions to this, explained below.

Does my landlord have to warn me before I can be evicted?

Yes. The type of notice he must give depends on what type of tenancy you have.

➤ **If you have a written lease:**

- Your landlord can evict you for a "material breach" of the lease. This means that you have violated one of your major duties under the lease, such as payment of rent, not disturbing other tenants in the building, not causing major damage, or some other "material" lease clause. **Know what your lease says so that you will know exactly what you have agreed to.** (Note: You have a similar right if your landlord "materially breaches" the lease. (Read



more at page 3-4 under "Leases.")

- If you have "materially breached" the lease, your landlord can serve you with a 7-day notice to quit. The notice must advise you of your right to contest the eviction in court. Read more about 7-day notice rules below.
- **End of lease term.** If your lease does not say that it automatically renews when the lease term ends, your landlord can go to court without giving you any notice. But he can do this only during the seven days following the end of your lease term. For example, you have a one year lease that ends on February 28. Your landlord may file a court complaint between March 1 and March 7, asking for an eviction order without giving you a notice first. (**If your rent is subsidized**, your lease probably renews automatically, so this paragraph does **not** apply to you.)

➤ **If you are a tenant at will (no lease):**

Your landlord must give you either a 30-day or 7-day written notice to leave, or he can combine both of these into one notice. Any notice must advise you of your right to contest the eviction in court. This is called a "Notice to Quit."

30-day written notice

Your landlord can evict you with 30 days notice for almost any reason or no reason.



Exceptions: You may be able to stop the eviction if your landlord is evicting you because of "retaliation" or "illegal discrimination." Read "Retaliation defense" and "Discrimination defense" at page 18.

The notice must not terminate the tenancy until the last date for which rent has been paid, or later. For example, if your rent is

paid through the end of June, your notice period cannot end before June 30th. Also, the notice must give you a full 30 days. (Example: A notice ending the tenancy on June 30 must be given to you no later than May 31.) If the notice does not follow these rules, you may be able to stop or delay the eviction. Get legal advice.

7-day written notice

To evict you with a 7-day notice, your landlord must have a reason and state that reason in writing. The reason must be one of these:

- ✓ You have **seriously** damaged the apartment and have not repaired the damage.
- ✓ You have been a "nuisance" to other tenants or neighbors. (Examples: You pick fights with your neighbors, don't let them sleep, or destroy their property.)
- ✓ You have made the apartment uninhabitable or unfit to live in.
- ✓ You have changed your door locks and have refused to give your landlord a duplicate key (see page 25).
- ✓ You are 7 days or more behind in rent.



If the reason is that you have not paid your rent, the notice **must include** these two sentences:

"If you pay the amount of rent due as of the date of this notice before this notice expires, then this notice as it applies to rent arrearage is void."

"After this notice expires, if you pay all rental arrears, all rent due as of the date of payment and any filing fees and service of process fees actually paid by the landlord before the writ of



possession issues at the completion of the eviction process, then your tenancy will be reinstated."

This means that you can stop the eviction by paying the rent you owe. After 7 days, if you do not pay up what you owe before your next rent date, you have to pay both months' rent to stop the eviction. You can still stop the eviction by paying all rent owed even after the landlord takes you to court to get an eviction order. But to stop the eviction then, you have to pay all of the rent due **and** the landlord's court costs. These costs are:

- cost of serving the court papers
- court filing fee

Your last chance to stop the eviction is just before the court issues the "writ of possession." Your landlord can get this "writ" **7 days** after he gets the Court order.

Does the landlord, or his agent, have to give me the "Notice to Quit" in person?

Yes. In a tenancy at will, the landlord, or his agent, must deliver the 7-day or 30-day notice to the tenant in person. The notice does not have to be served by a sheriff.

Exception: The landlord, or his agent, must make 3 good faith efforts to hand deliver you the notice. If he still cannot find you after 3 tries, he can mail you the notice and leave a copy at your home.

What if I rent my home from my employer?

If your landlord is also your employer, he may be able to go to court to evict you without first giving you a written notice to quit. Get legal advice. Your landlord must still go to court to evict you.

What if I do not move out after I get an eviction notice?



Your landlord must go to court to evict you! If you do not move out by the end of the notice period, then your landlord can have you served with court papers. The court case is called a "Forcible Entry and Detainer." (This does **not** mean that the landlord can enter your home by force or detain you.) The papers say that he is trying to evict you. They ask the court to hold a hearing, to decide if you can be evicted. If you want to fight the eviction, you have a right to be heard in court. A landlord **cannot** legally evict you without a court order.

Here is what will happen:

⇒ A deputy sheriff will give you court papers: a summons and a complaint. The landlord can have these papers served on you any time after the end of the notice period. The summons will tell you the date, time and place of the court hearing. You must get the papers at least 7 days before the court hearing. The officer must make a good faith effort to deliver the papers in hand at least 3 times on 3 different days. If that doesn't work, then the landlord may mail you the notice and leave a copy at your residence where you are likely to find it (such as posting on your door). Then the landlord must file an affidavit with the court swearing to the steps he has taken to notify you.

⇒ **Seek legal advice immediately.** (If you cannot get a lawyer, we have more information about facing an eviction on your own at: <http://ptla.org/what-can-i-do-if-my-landlord-trying-evict-me.>)

⇒ If you end up going to the hearing without a lawyer, ask for a **recorded hearing**. Send a letter to the court ahead of time. Your request should be at least



24 hours in advance. Then ask for a recording again when you get to court.

⇒ **Be on time for your hearing.**

⇒ The judge may tell you that you must go to "mediation" before having a court hearing. (Read more about this and other court procedures in our pamphlet on Evictions.) If you do not come to an agreement during mediation, then you will go on to a formal court hearing.

⇒ At the court hearing the landlord will tell the judge what notice he gave you and why he wants to evict you. Then you have a chance to explain why you should not be evicted. Here are some common defenses:

• **Improper notice defense**

Your landlord must follow all of the notice rules. (Most of the notice rules are explained above.) If you think that your notice to quit did not meet all of the rules, explain that to the judge. If the judge finds that your landlord did not follow all of the notice rules, then the landlord loses and he will have to start the eviction process all over again.

• **Unsafe or unfit housing defense**

If your landlord is trying to evict you because you are behind in paying rent, you may be able to stop the eviction if you didn't pay because of serious problems with your home that your landlord refused to fix. This is called a "warranty of habitability defense" because the landlord has broken his promise to rent you a safe home. (See "Unsafe or Unfit Housing" section at page 9.)

If the judge finds that the landlord has not fixed serious problems that you told him about, then you can ask the court:

- ✓ To let you out of your lease, **OR**

- ✓ To let you stay and to pay a lower rent until the landlord makes your home safe. If you stay, the judge will also decide how much back rent you must pay, at the lower rate.

• **Retaliation defense**

There are laws to protect you if your landlord tries to evict you because you asserted your rights. For example, if you can show that the landlord is trying to evict you because you:

- Complained to the city of code violations
- Asked your landlord in writing to do necessary repairs
- Filed a fair housing (discrimination) complaint with the government,
- Are the victim of domestic violence, sexual assault, stalking, or
- Started or joined a tenants' union

The judge should not let the landlord evict you.

Warning: If the landlord convinces the judge that he is trying to evict you for some other good reason (like causing a "nuisance"), then you may still be evicted. Also, the law does not allow this defense where the eviction is based on failure to pay rent or causing substantial damage to the premises unless you had tried to use "repair and deduct" because of bad living conditions. (See "Can I fix the problem myself?" at page 13.) Effective October 2015, different rules apply to protect victims of domestic violence, sexual assault or stalking. (Read more at page 22.)

You also have the right **not** to pay an unlawful rent increase and **not** to pay for common utilities. (See sections on "Rent" at page 7 and "Heat and Utility Charges for Common Areas" at page 24.) If your landlord is trying to evict you for one of



these reasons, explain that to the judge. These defenses **might** stop the eviction.

• **Discrimination defense**

You should not be evicted because of your:

- race
- color
- sex
- sexual orientation
- physical or mental impairment
- religion
- ancestry or national origin
- getting welfare, or
- being a single parent, being pregnant or having children

Read more about "Discrimination" at page 22.

Note: If you or someone in your family has a physical or mental impairment, most landlords must allow for "reasonable accommodations" to help you stay in your home. You can ask for this help even after you get an eviction notice. A court should not allow your landlord to evict you if your landlord has not tried a "reasonable accommodation." Try to get a lawyer to help you with this defense.

Caution: Your landlord may have more than one reason for trying to evict you. Even if you have a good defense to one of his complaints, the judge may still allow the eviction if the landlord has another good reason why he wants you to move out.

Will the court give me extra time to move?

Most judges do not believe that the law gives them the power to grant extra time where you have no legal defense. You may try to negotiate with the landlord or his lawyer for some extra time. Or, if you have

the option to talk to a court mediator, you can try to get an agreement for extra time through mediation. But, unless you have an agreement, the court will probably not delay the eviction.

Can I be evicted during the winter or if I have children?

Yes. Maine law allows your landlord to evict you at any time during the year and even if you have children. However, you cannot be evicted **because** you have children. See "Discrimination" section at page 22.



NOTE: If you are evicted, your children still have the right to be in school. For more information, ask for our pamphlet: "Rights of Homeless Students to Attend School."

What happens if I do not go to the eviction hearing in court?

If you do not go to the court hearing and your landlord does, you will lose. The judge will most likely enter a "default judgment" against you. Then the landlord can go back to court 7 days later and get a "writ of possession."

If you owe the landlord money for rent or damages, he cannot get a court order for this at the eviction hearing. He can only ask for an eviction order. He can sue you later, if he wants to, for any money you owe him.

What happens if I go to court and lose?

If the court rules against you and you do not appeal, then your landlord can get a "writ of possession" from the court 7 days later.

What is a "writ of possession?"

This paper comes from the Court and gives the landlord the right to get his property back from you. Your landlord can ask a law enforcement officer to give you a copy of the "writ." You must move out of your



apartment within 48 hours after getting the "writ." If you do not move out, you will become a trespasser. The landlord then, and only then, has the right to have the police remove you by force (and to put your things in storage at your expense).

Can I appeal my case?

Yes. You can appeal your case if you believe that the court's decision was wrong.

There is an appeal deadline. Any appeal must be filed before the "writ" issues (see above). To be safe, file the appeal with the District Court within **6 days** of the day the judge signed the order against you. (The absolute deadline is 30 days from judgment, if a "writ" was not issued earlier.)

On appeal you can have a new trial with a jury. To get a jury trial, you must prove to the Court that you and your landlord disagree about the **facts** of the case. If you only disagree about what the **law** means, the appeals court will only review the record of your first hearing to see if the judge made any legal mistakes in deciding the case.

Be prepared to pay rent to the landlord or into a court escrow account while your appeal is pending.

If you want to appeal, especially if you are going to ask for a jury trial, try to get a lawyer. This would be hard to do on your own. The [court provides an appeal form](#), but completing and filing the form is only the first step of pursuing an appeal. The appeal form, CV-206, is posted here:

www.courts.maine.gov/fees_forms/forms/index.shtml#cv

Abandoned Property

What happens if I move and do not take all my property with me?

If you move out without taking your property with you, you could lose it. So take all your things with you when you leave if you can. Don't leave things behind to pick up later. If this is not possible, Maine law does offer some protections.

The law says your landlord must store your property in a safe, dry, secured place. Then she must mail a notice to your "last known address," saying she plans to get rid of your things and listing the items. (Leave a forwarding address if you want to get the notice.) You must claim your property within **7 days** after the notice was sent. If you do this, your landlord must store the property for at least **14 days from the date notice was sent**, giving you time to get your things. Pick up your things within the 14 days. If you do this, **your landlord cannot make you pay any rent owed, damages, or costs of storage as a condition for giving back your property.**

If you don't claim the property within 7 days, or don't pick it up within 14 days, your landlord may:

- sell the property for fair market value,
- get rid of anything he thinks has no fair market value, or
- return your property to you only if you pay for rent owed, damages, and costs of storage

If he sells your property, he must send any money left over to the State Treasurer in Augusta, after deducting what you owe him for rent, damages, and storage costs.

NOTE: Effective September 2011, there are new rules for mobile home park owners who claim that a tenant has abandoned a



mobile home. Go to Mobile Home section to read more (page 26).

What if I can't get my things because I am hospitalized due to my disability?



Write to your landlord and ask him to make a "reasonable accommodation" for you, giving you more time or a chance to get someone to help you move your things.

Note: If you're not moving out voluntarily, your landlord must follow eviction rules to get you out.

Remember: The best way to protect your property is to take it with you when you leave. Even though the law says that your landlord must protect your property, things can go wrong.

- Sometimes it is hard to get back what you have lost or to prove what it is worth.
- If your landlord does not have your current mailing address, you won't get his notice. Then you could easily miss the 7 day deadline for claiming your things.
- If you fail to act within the deadline, your landlord can deduct for money you owe, which will be more as time goes on if there are storage fees.
- If your landlord damages your property, it will be difficult to recover that loss.
- Your landlord might ignore the law and get rid of your things illegally.



Sale or Foreclosure of Your Building

What happens if my landlord sells my building?

The sale of your building may affect your rights.

If you do not have a written lease, your old tenancy will end. The new owner must let you stay for at least as long as you have paid for. You and your new landlord can make a new agreement. If your new landlord accepts rent from you, then you have a new tenancy.

If you have a lease, you probably have the right to stay until the end of your lease term. Read your lease to see if it says anything different. If your lease term is for more than 2 years, you should record your lease in your county Registry of Deeds **before** the sale, to help protect your lease rights. This rule also applies if you have a long-term lease with no specific ending date.

Does the new landlord have to give me a notice to quit before evicting me?

Yes. Even if you are a tenant at will (no lease), your new landlord must give you a 30-day or a 7-day written notice, unless your old landlord already gave you the notice. (See "Eviction" section at page 15.)

What if my building is in foreclosure?

From May 2009 through December 2014, a federal law gave additional protections to renters living in foreclosed buildings. But that law has ended. Maine law does offer tenants in foreclosed buildings some notice protections. If the bank - or lender - takes the building back from your landlord, it must notify you in writing about the change in ownership. But this notice is not required until the lender has gotten a final court judgment in the foreclosure case.

A typical foreclosure - from initial notice to final court judgment - can take several months, sometimes years. Your landlord is still responsible for the building and its tenants during the foreclosure process. He can also bring an eviction action, following all of the normal eviction rules. This means that your original landlord can bring an



eviction until such time as the court grants a change in ownership through the foreclosure action. At that point in time, the bank assumes responsibilities for the building and its tenants - along with the power to evict. The bank is required to give tenants written notice of the court's foreclosure order. The notice can be mailed, served by sheriff, or posted at each entrance to the building. The bank can bring an eviction action in court 21 days (or more) after giving that notice. Typically, the bank then sells the building to a new owner, who would then become your landlord if you are still living in the building. Again, this new owner either:

- assumes your lease, if you have one,
- decides to keep you on as a tenant, with a new agreement (where no ongoing lease), or
- decides to evict you.

If the new landlord chooses the third option, again, he must follow all of the normal eviction rules.

Discrimination

Landlords may not discriminate against you because of your:

- race
- color
- sex
- sexual orientation
- physical or mental impairment
- religion
- ancestry or national origin
- getting welfare
- being a single parent, being pregnant or having children

This means that a landlord cannot refuse to rent to you, charge you extra, or evict you for any of these reasons.

Note: The state law barring discrimination based on sexual orientation went into effect

on December 28, 2005. This law also protects trans-gendered people. And it prohibits discrimination based on another person's belief that you are gay or trans-gendered, even if you are not.

If you think your landlord has illegally discriminated against you, contact Pine Tree Legal or one of these offices:

Maine Human Rights Commission
51 State House Station
Augusta, Maine 04333-0051
phone: **624-6290** TTY: **1-888-577-6690**

U.S. Fair Housing Office (HUD)
10 Causeway Street, Room 321
Boston, MA 02222-1092
phone: **1-617-994-8300**
toll-free: **1-800-827-5005**
TTY: **1-617-565-5453**

Pine Tree Legal has more information about how a landlord must treat you fairly if you have a mental or physical impairment. You can get that information from our offices, or visit our "Fair Housing for People with Disabilities" page: www.ptla.org/fair-housing-faq-housing-protection-people-disabilities

Victims of Domestic Violence, Sexual Assault and Stalking

Beginning October 15, 2015, a Maine tenant who is the victim of domestic violence, sexual assault, or stalking has new legal protections. Generally, this law is intended to lessen the impact on victims who are tenants by giving them more options around their living situations. More details below.

How do I let my landlord know that I am in an abusive situation?

A key part of this new law is communication with your landlord. Your landlord must protect your rights, but only after he knows they exist. You must also "verify" the situation by naming the abuser and giving



your landlord some “proof.” This “proof” can include things like a:

- statement signed by a sexual assault counselor or a victim witness advocate
- statement signed by a health care provider or law enforcement officer
- copy of a Protection from Abuse complaint or order
- copy of a Protection from Harassment complaint or order
- copy of a relevant police report, or
- copy of a criminal complaint, indictment or conviction

Once you have notified your landlord of your situation, the following rights come into play.

Won’t I be in worse trouble with my landlord if I tell him?

Under the more general Maine landlord/tenant laws, an eviction can be based on: 1) nuisance, 2) damage to property, or 3) disturbance (to other tenants or neighbors). This new law says that your landlord cannot evict you for one of these reasons if the problem was caused by an abuser, and you are the victim of that abuse. Again, your landlord needs to know the facts of your situation so that he will know that this legal protection applies.

But what if my landlord tries to evict me because I told him about my situation?

The law says that your landlord cannot do this. This is called “illegal retaliation.” So, once you notify your landlord of the abuse, the law assumes that, for the next 6 months, any attempted eviction is in retaliation. The court would not give your landlord an eviction order unless he proves that the eviction is for a different reason (like non-payment of rent). Read more about the Maine eviction process at page 15.

Can I be charged by my landlord if the abuser damages the property?

The answer depends on whether the abuser lives with you.

The abuser is also a tenant in your unit.

Your landlord can charge you for any damage by taking it out of your joint security deposit. But he cannot charge you more than that amount. Again, notification to your landlord is the key. To invoke this protection, you must give your landlord notice and “proof” (see above, page 22-23) within 30 days of the relevant incident.

The abuser does not live in the unit. If you did not invite the abuser in or allow him to be there, you cannot be held responsible. Filing a police report can help to verify your lack of responsibility in this situation.

What if I need to move because of the abuse? Can I end my tenancy?

Yes. Again, you need to “document” the abuse. See above, page 22-23.

You are a “tenant at will” (no lease) or you have a lease for less than a year: You must give your landlord a written notice of your intent to move at least 7 days before you intend to move out.

You have a lease term for a year or more: You must give your landlord a written notice of your intent to move at least 30 days before you intend to move out.

After the 7 days, or 30 days, ends, you are no longer responsible for paying rent. (By giving the notice, you have ended your tenancy, so you must move.) If you have prepaid rent for the month, your landlord does **not** have to give you a refund.

Can I stay if the abuser is evicted?

Yes. In this situation, your landlord can evict the abuser, if he chooses to do that. Read about eviction procedures the landlord must use to evict the abuser at page 15. But your landlord cannot evict you – unless he has another allowable reason (such as non-payment of rent).



Going forward, you will still be responsible for paying the rent. If you get a rent subsidy (such as a Section 8 voucher) and your household income is now lower, you need to ask the Housing Authority for a recalculation of your rent based on the new household income.

Does the abuser have to pay me back for damages?

You can sue the abuser for the damages the abuser caused. You can also get court costs and attorney's fees against the abuser. This "attorney fee" part of the law is significant. This may make it easier for you to find a lawyer to help you to sue the abuser.

What if I need to change the locks to keep the abuser out?

The general rule in Maine is that a tenant who changes the locks to his rental unit must notify his landlord. And he must give the landlord a duplicate key within 48 hours. But in this case, you have 72 hours to provide your landlord with a duplicate key. You must pay for the work.



Heat and Utility Charges for Common Areas

Can the landlord make me pay for heat and utilities outside of my apartment?

If you live in an apartment building, you may find out that you are paying for heat, lights, or other utilities for "common areas." This includes, for example, hallways, basements, or a common hot water heater or furnace. It is illegal for your landlord to make you pay those costs alone. For example, the hall lights should not be hooked up to your meter.

If you find out that you are paying for heat or utilities going to "common areas" or to someone else's apartment, take these steps.

- ⇒ First talk to your landlord. Ask her to put in a separate meter or to lower your rent to make up for the extra money you are paying.
- ⇒ If you agree to lower your rent, do it in writing. Write down exactly how much less rent you will pay in exchange for paying for the extra heat or utility costs.
- ⇒ If you have been paying these extra charges for some time, ask your landlord to pay you back. If you cannot figure out how much you should be paid, check with your heating or utility company or city electrician to find out if they will help you.
- ⇒ If your landlord refuses to pay what is fair, you can sue. If you win, you can get \$250.00 or your "actual damages" (how much you lost), whichever is more. The landlord will have to pay your court costs and lawyer's fees. Or you can file your claim in Small Claims Court on your own.

Caution: If you are not ready to move, think about whether you want to sue now or later. Read the section on "Evictions" at page 15. If you are not protected by a lease, then you may want to wait and sue after you have moved or are ready to move, in case the landlord retaliates with an eviction.

Cable TV, Dishes, Antennas

If I live in an apartment building, can my landlord stop me from getting cable TV, a satellite dish or an antenna?



Generally, no. Your landlord can refuse to allow these installations **only if** he has "good cause" to deny that company. "Good cause" could be:



- if that company has broken agreements with the landlord before
- if that company has damaged the building before and has not fixed it
- some similar valid complaint against that company

Maine has detailed laws about how cable TV companies and landlords must deal with each other. Call Pine Tree Legal if you want a copy of that law.

The Federal Communications Commission also has rules allowing tenants to have small dishes (one meter or less in diameter) and certain types of "customer-end" antennas. But you must have "exclusive use" of the area where you install the dish or antenna, such as a balcony (not common areas, such as the roof of an apartment building, unless your landlord allows it).

More information from the FCC:
<https://www.fcc.gov/encyclopedia/faqs-satellite>. If you still have questions, contact Pine Tree Legal for more information.

Landlord Entering Your Home



Can my landlord come into my apartment or house at any time?

No. If your landlord wants to come into your home to make non-emergency repairs, or to show or inspect the apartment, she must give you "reasonable notice." Normally, this means at least 24 hours notice.

Your landlord can come in only at "reasonable times." Generally, this means during the daytime or evening, not in the middle of the night. There may be other factors that make certain times "unreasonable" for you.

Exception: If there is an emergency, your landlord can enter after a shorter notice or without notice. For example, the pipes burst or there is a fire in your apartment.

What can I do if my landlord comes in without giving me reasonable notice?

If your landlord does not follow these rules, or if your landlord tries to come in without good reason to the point you feel harassed, you can sue your landlord. The judge can order your landlord to pay you for your "actual damages," or \$100.00, whichever is more. She can also order the landlord to stop coming into your apartment without good reason and without fair notice. If you have a lawyer and you win at hearing, the court can also order your landlord to pay your lawyer fees.

If you cannot get a lawyer and if you need fast protection from serious, repeated harassment, you can file a Protection from Harassment complaint in District Court. Call Pine Tree Legal if you want more information about how to do this.

Is it legal to change the locks to keep my landlord out?

No. If you need to change your locks for any reason, you must notify your landlord. Also, you must give him a key within 48 hours of the change. Victims of domestic violence, sexual violence or stalking who need to change the locks for safety reasons have 72 hours to provide a new key to the landlord.



Your landlord may give you a 7-day eviction notice (see page 16) if you change the locks without following these rules. He can also charge you for any damage caused, if he needs to enter in an emergency and is locked out.



Subsidized Housing

If a housing authority or similar agency pays all of part of your rent, your housing is "subsidized." Your rent may be subsidized even if your house or apartment is owned by a private landlord. "Public housing" is also subsidized.

If you need to find out where to apply for subsidized housing in your area, contact:

Maine State Housing Authority
89 State House Station
353 Water Street
Augusta, Maine 04330
Toll-free phone: **1-800-452-4668**
TTY: **1-800-452-4603**

If you live in "subsidized housing," you should have a standard lease. This lease gives you more protections than most non-subsidized tenants have. For example, your lease may have a "grievance procedure" which gives you the right to an informal out-of-court hearing on a complaint you have against your landlord. **Your lease probably gives you more protections against eviction than the ones described in this "Rights of Tenants" Guide.** It may say that your landlord cannot evict you unless he has "good cause" or unless he can prove you broke the lease.

If you are in one of the 3 major HUD subsidy programs (public housing, Section 8, or voucher choice), you cannot be evicted because you were the victim of domestic violence, dating violence, sexual assault or stalking. You may have other rights under federal law that are not explained in your lease.

Different subsidized housing programs have different rules and different form leases. **Read your lease!** If you are not sure of your rights under your lease or if you are being evicted from subsidized housing,

contact your local Pine Tree Legal office (contact information at page 2).

Mobile Home Parks

Who is protected by the mobile home park laws?

This section applies to you if you **own your mobile home and rent a lot in a mobile home park.** Also, these "Rights of Tenants" Guidebook sections above apply to you:

| | |
|------------------------------|---------|
| Tips Before You Rent | page 2 |
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If you **rent a mobile home**, you have the same rights as a tenant in an apartment building or house. Read the earlier sections of this handbook, which apply to you. To read about your security deposit, see below.

If you **own your mobile home and rent the land it sits on but not in a mobile home park**, you should talk to a lawyer if you have a problem. (Only some parts of this handbook apply to you.)

What is a mobile home park?

A mobile home park is a piece of land that has, or is laid out to have, two or more mobile homes on it.

How much can I be charged for a security deposit and how do I get it back?

The "Security Deposit" section at page 4 applies to you, with these exceptions:

- The park owner may charge up to 3 times the monthly rent for a security deposit.



- For the period before September 12, 2009, the landlord must pay 4% interest on your deposit. For later periods, the park owner must pay you a market-based rate of interest. Your landlord must put your money in a separate, protected bank account (which can be pooled with other deposits). You should get all of the interest earned on your deposit. In the alternative, your post 9/12/09 interest will be based on the Federal Reserve's secondary market 6-month CD rate for each year the landlord has been holding your deposit.

Read the "Security Deposit" section at page 4 to find out how to get your deposit back if the park owner refuses.

What kind of fees can I be charged?

The park owner may charge fees. Fees may include rent, utilities, incidental service charges, security deposit and an entrance fee. Before you move into the park, the park owner must explain all fees to you in writing. Before increasing any fees, he must give **all tenants** at least 30 days written notice.



If you are moving into a mobile home that is already in the park, the park owner cannot charge you more than 2 times the monthly rent for an entrance fee. He cannot call this fee something else, in order to get around this limit.

The park owner cannot require you to buy your oil or bottled gas from him. He cannot choose your dealer; that is **your choice**.

The park owner cannot require you to buy from him any under skirting, equipment for tying down mobile homes or any other equipment.

Park Rules

What kind of rules can the park owner have?

The rules must be reasonably related to keeping order and peace in the mobile home park. All park rules must be fair and reasonable. A rule is presumed to be unfair if it does not apply to all park tenants. (However, the park owner may be able to prove that a non-uniform rule is fair, if he has a compelling reason for the rule.) The park owner must give **all tenants** at least 30 days notice of any rule change before it takes effect.

These rules are **not** legal and a park owner **cannot** enforce them:

- A rule that says the park owner is not responsible for his own negligence
- A rule that says you have to pay the park owner's legal fees (in an eviction, for example)
- A rule that says you must give the park owner a lien on your property if you owe him money
- A rule that gives up your right to challenge the fairness of any park rule or any part of your lease or rental agreement

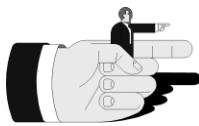
How do I find out what the park rules are?

Before you sign an agreement to rent, the park owner must give you:

- a copy of the mobile home park rules **and**
- a copy of the Maine mobile home park laws



Eviction



Does the park owner have to have a reason to evict me?

Yes. He must have a reason and he must be able to prove it in court. His reason must be on this list. (These rules apply to you, all household members, and your guests.)

- 1) You did not pay rent, utility charges or **reasonable** service charges. You will not be evicted if you pay the amount you owe **plus a fee** before the end of the notice period. The notice must give you at least 30 days. The fee is 5% of what you owe, up to a maximum of \$5.00. (A 2005 law allows park owners to charge interest on late payments. See page 8. It is unclear how this new rule on interest charges intersects with this older \$5 fee rule. Call Pine Tree Legal (see page 2) if you need advice on this issue.)
- 2) You broke a mobile home park law. Before giving you an eviction notice, the park owner must tell you in writing what law you have broken and give you a reasonable chance to comply.
- 3) You broke a **reasonable** park rule. (See section on "Park Rules.") Before giving you an eviction notice, the park owner must tell you in writing what rule you have broken and give you a reasonable chance to comply.
- 4) **You violated Paragraph 1, 2 or 3 above three times within 12 months. After 3 chances within a one-year period, you can be evicted even if you corrected all three violations.**
- 5) You damaged the property in some way. "Damage" does not include "normal wear and tear." Normal wear and tear is what happens to property over time from normal use.

6) You **repeatedly** disturbed the peace and quiet or safety of other tenants.

7) You violated a term of your written lease that the lease says you can be evicted for. **Read your lease before you sign!**



8) The park is condemned or changed to some other use. Before evicting you for "change of use," the park owner must have told you about this when you moved in or must give you a **one-year** written notice.

9) If the park owner wants to evict you because he plans to renovate the park, he must give you between 6 months to 12 months notice. He may also have to pay for your moving costs.

Exceptions:

- If there is a serious problem that is dangerous for tenants, the park owner can evict you "temporarily" with a shorter notice, if he pays your costs.
- If it is **not** an emergency, he can give a 30-day written notice to "temporarily" evict, if he pays your costs.
- If the government orders the park owner to do a major renovation that requires evictions, the park owner can give a shorter notice.

Note: If you are being evicted for reason #9 above, talk to a lawyer or Pine Tree Legal.



What kind of notice do I get?

Before taking you to court to get an eviction order, the park owner must give you a written notice to quit. The notice must:

- be in writing
- state the reasons for the eviction
- give you **45 days** before your tenancy ends



Note: The notice period is different in some cases, like for nonpayment of rent (30 days). To find out these exceptions, read the list 1-9 above.

The park owner, or his agent, must give this notice to you in person.

Exception: He can send the notice by mail and leave a copy at your home if he has tried for 3 days to serve you in person and has not been able to find you. He must have a witness.

If someone has a lien on your mobile home (such as a seller to whom you are still making payments), the park owner may also notify the lien-holder of the eviction. If your contract with the lien-holder allows it, she may try to repossess your home to protect her interest in the property. Get legal advice.

What happens at the end of the notice period?

If you have not moved and the park owner still wants to evict you, she must file a complaint in District Court asking the court to allow the eviction. This is called a "Forcible Entry and Detainer" action. A deputy sheriff will serve you with a copy of the complaint and a court summons. The

summons will tell you the date and time of the court hearing.

At the hearing, the judge will listen to both sides. If the judge finds that the park owner did not follow all of the notice rules or did not prove one of the reasons for eviction listed above, the judge will dismiss the case and you will not be evicted. But if the park owner gets the eviction order from the court, she can then ask the Sheriff's Department to evict you and your family **and to remove your mobile home from the lot.**

Talk to a lawyer right away if you get a notice to quit or a court complaint and summons.



What if the park owner is trying to evict me because I complained, because I am in a tenant group, or for some other unfair reason?

The Court should not evict you if you prove that the park owner's main reason for trying to evict you is that:

- You helped to start a tenant's organization or you belong to a tenant's organization; or
- You have complained about the park owner's violations of mobile home park laws.

If you think that the park owner is trying to evict you because you complained about unsafe conditions in the park, read the section above on "Retaliation Defense" at page 18. This defense to eviction **may** apply to you. If you believe that the park owner is illegally discriminating against you because of your:

- race
- color
- sex
- sexual orientation



- physical or mental impairment
- religion
- ancestry or national origin
- getting welfare
- being a single parent, being pregnant or having children

See "Discrimination" section at page 22.

What if I refused to pay rent because of bad living conditions in the park?

If the park owner is trying to evict you because you owe rent and there are unsafe living conditions in the park, you may have a good defense to the eviction. Read the section "Unsafe or unfit housing defense" under "Evictions" at page 17. These rules also apply to mobile home park tenants. In your case, the problem might be dangerous outside wiring or unsanitary septic system, instead of lack of heat.

Additional rule for mobile home parks: You must have given the park owner or his agent notice of the problem when your rent was paid up.

What if the court orders an eviction and I can't move my mobile home right away?

The park owner must mail you a "14-day notice" - sent first class mail, with proof of mailing. The notice tells you that the park owner plans to get rid of your mobile home. You have 14 days to claim the mobile home before this happens. The landlord must send this notice to your "last known address." In order to get the notice, you must let your landlord know where you are getting mail. Otherwise, the 14 days could lapse without you knowing about it.

If you claim the mobile home within 14 days, then the park owner must give you another 21 days to move it. If the weather or roads prevent you from moving the mobile home, then the park owner must give you more time to move it. But he can charge you

for any actual costs he incurs as a result of the delay.

If you do not claim your mobile home within 14 days - or move it within the 21 days (or other agreed-upon time period) - then the park owner may treat the mobile home as "abandoned property."

The park owner can:

- Hold your mobile home until you pay all back rent, damages, legal fees, and storage costs; OR
- Sell the mobile home for a "reasonable fair market price." He can then deduct from the sale money his costs: back rent, damages, legal fees, storage costs, marketing expenses, and taxes. (He may also dispose of any property that has "no reasonable fair market value.")

If there is money left over after the sale and deduction of expenses, the park owner must send it to your last known address. If the mailing is returned by the post office, then the park owner must forward the money to the Treasurer of State. The park owner cannot keep any money that is left over.

Unsafe or Unfit Conditions

What areas must the park owner take care of?



A park owner must promise that the space he rents and its facilities are "fit for habitation." This means that they are safe and healthy. For example, if your septic system backs up or your park road becomes impassable, the park owner must fix the problems. On the other hand, you must fix problems inside your home, unless they were caused by the park owner.



What if the park facilities are unsafe or unhealthy?

You can file a court action against the park owner. Before going to court you should take these steps:

- Talk with the park owner or manager about the problem.
- Talk with other tenants about the problem and meet as a group with the owner or manager.
- Contact the local code enforcement officer, plumbing inspector or fire chief and ask for an inspection.
- Contact the Maine Manufactured Housing Board:
35 State House Station
Augusta, ME 04333
Phone: **624-8612**
TTY: **1-888-577-6690**

If you still cannot resolve the problem, talk to a lawyer or Pine Tree Legal before going to court. Also, read the section about suing your landlord in court at page 14. The procedures and remedies are very similar.

What happens if I am forced to leave my mobile home during repairs?

If you must leave for a short time so things can be fixed, the park owner cannot charge you any rent until you move back in. If the owner offers you a reasonable place to stay, then the court will not order the park owner to pay for your costs of staying somewhere else.

Sale of Your Mobile Home

Can the park owner interfere if I want to sell my mobile home?

No.

- The park owner **cannot** charge you a fee for selling, unless you asked him to sell it for you and signed a contract agreeing to pay him.
- The park owner **cannot** force you to hire him as your sales agent.
- The park owner **cannot** restrict any advertising you do, as long as it is reasonable.

You must tell the park owner before you put up any "For Sale" signs in the park.

If your mobile home was built before June 15, 1976, the park owner can require you to show that it meets the state standards. If the buyer plans to stay in the park, he should make sure that the park owner will accept him as a tenant. He can back out of a sale agreement within the first 30 days if the park owner does not agree to rent the lot to him.

He can also back out of the deal if the park owner wants the home removed because it does not meet state or park standards. The park owner cannot require removal because of **park** standards unless these standards are clearly stated in the park rules **and** are reasonable.

Sale of Mobile Home Park

Does the park owner have to let me know if he is selling the park?

Yes, in most cases.

General rule: The park owner must give you and all other tenants 45 days written notice of his intent to sell. During the 45 days, he cannot contract to sell the park.

Exception: The park owner does not have to give the 45-day notice if the buyer's deed says that he cannot change the use of the park for two years after he buys it. This



deed restriction must also say that tenants have the right to enforce it.

What if the new owner tries to close the park anyway?

You can sue the new owner in Superior Court and ask the judge to order the buyer to keep renting the lots for at least two years.

You can also make a money claim for any damages you have suffered. You can sue alone or as a group of tenants or as a tenant association. If you have a lawyer, the judge can order the park owner to pay your lawyer fees if you win.

Notice



Pine Tree Legal Assistance
September 2011; partially revised October 2015

We have tried to make this accurate as of the date above. Sometimes the laws change. We cannot promise that this information will always be up to date and correct. If the date above is not this year, call us to find out if there is an update.

This information is not legal advice. By sending you this, we are not acting as your lawyer.