



Tenant Hotline

Phone: 612-728-5767

Online: [homelinemn.org/email](mailto:homelinemn.org@email)

Insights from a Landlord Attorney

November 16, 2022 — 1:30-3:00pm

Attorney Jessica Mikkelson

Managing Attorney & Hotline Director Mike Vraa

Housing Attorney Rachael Sterling

What is HOME Line?

- HOME Line is a statewide nonprofit organization providing free legal, educational, and advocacy services to Minnesota renters. We have advised over 260,000 renters since 1992.
- Our primary program is a free and confidential legal hotline any Minnesota renter can contact us to receive legal advice specific to their situation, in 4 languages.
- HOME Line has a staff of 23, including attorneys, tenant advocates, and tenant organizers. We also rely on volunteers and interns.



What is HOME Line?

HOME Line Tenant Hotline:

612-728-5767

Toll-free: 866-866-3546

Para Español, llame al 612-255-8870

Af- Soomaali wac 612-255-8860

Hais lus Hmoob, Hu 612-255-7104

Online: homelinemn.org/email



WHAT TO KNOW IF YOU'RE RENTING

PRESENTED BY JESSICA MIKKELSON
ASSOCIATE ATTORNEY AT HELLER & THYEN

JESS@HELLERTHYEN.COM

DRAFTING A LEASE

What is a lease?

“A contract by which a rightful possessor of real property conveys the right to use and occupy the property in exchange for consideration, usually rent.”

Statewide, a lease must be in writing if:

- the term of the lease is longer than one year, or
- if the apartment building has 12 or more residential units.

Failure to have a written lease is a petty misdemeanor.

Oral lease should be avoided whenever possible.



WHERE CAN I FIND A DRAFT/SAMPLE LEASE?

- There are many free or low-cost leases available on the internet. Most of these leases are not Minnesota specific and are poorly written.
- Save yourself time and money by using a legally compliant lease.
- The Minnesota State Bar Association has produced a Standard Residential Lease that is sufficient for 99% of landlords.
- This lease can be located at:
 - <https://homelinemn.org/wp-content/uploads/2019/01/minnesota-standard-residential-lease-agreement-form.pdf>
 - <https://my.mnbar.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=5b0ed469-e2f6-403c-5719-971f7cd29ff5&forceDialog=1>

IMPORTANT LEASE PROVISIONS

- Term of the Lease
- Late Fees (no more than 8% of rent)
- Caretakers (must be supported by adequate consideration and conspicuous writing)
- Specifying Responsibility for any Utilities
- Subletting
- Notice to Terminate Lease
- Right of Re-Entry

ILLEGAL LEASE PROVISIONS

- Assessing any fine or penalty for tenants who make calls for police or emergency assistance.
- Mandatory carpet cleaning fees.

ADVERTISING RENTAL UNITS

- Be sure that the unit is compliant with any local rental licensing and inspection requirements.
- Failure to do could expose landlord to liability under Minnesota's Consumer Fraud Act.
- In communicating with prospective tenants, always state that no lease will be entered without a written lease agreement.

SCREENING FEES

- Only can be assessed if the landlord knows that a rental unit is available or will soon be available.
- Can only be used to obtain a consumer credit report or tenant screening report.
- Landlord must disclose in writing the identity of any tenant screening service that the landlord will use, and the criteria that will be used to assess a prospective tenant.
- If a prospective tenant is rejected, the landlord must notify with tenant within 14 days of the criteria that the tenant failed to meet (can be orally, but better practice is in writing).
LESS IS MORE!

REPAIRS

- A landlord must ensure that the rental unit is:
 - Fit to live in;
 - Kept in reasonable repair;
 - In compliance with health and safety laws; and
 - Reasonably energy efficient.
- There is no requirement that a repair request must be in writing. A landlord must respond to all repair requests made by tenants, regardless of the form of the request.

FAILURE TO RESPOND TO REPAIR REQUESTS

- Emergency Tenant Remedies Action
 - Only applies to loss of water, hot water, heat, electricity, bathrooms, or “other essential services or facilities.”
 - Tenant must attempt to give landlord 24-hour notice prior to filing. Does not have to be in written and relief can be granted ex parte.
- Tenant Remedies Action
 - Applies to any alleged violation of: the lease; health, safety, building, and fire codes; and any statutory landlord covenants.
 - Tenant must give landlord 14-day written notice
- Rent Escrow and Rent Withholding

REASONABLE ACCOMMODATION REQUESTS

- Landlords have to make accommodations or changes in their rules, procedures or policies that let people with disabilities have equal use and enjoyment of housing. But the changes have to be "reasonable."
- A change is reasonable if it is necessary, does not cost the landlord a lot of money or other resources, and if it does not cause a fundamental change in the nature of the landlord's business.
- Examples:
 - Change of rent payment date to correspond to receipt of gov't benefits
 - Service Animals
- Landlords can request proof or verification of disability.

ENDING THE TENANCY

- Either the tenant or landlord can give notice of non-renewal.
- If a tenant breaks the lease prior to the expiration of the lease term or fails to give adequate notice, a landlord can continue to demand payment of rent.
- Many courts require that a landlord attempt to mitigate any damages created by the tenant prematurely breaking the lease.
- Courts routinely grant two months rent.
- Be sure to adequately document what efforts are made to re-rent the property. Post advertisements as soon as feasible.

EVICTION

- The **ONLY** way to forcibly remove unwilling tenants is an eviction.
- A landlord must serve the tenant at least seven days prior to the eviction hearing.
- Personal service must be attempted before post-and-mail service.
- Expedited Eviction – Rarely should be used. Courts can impose a civil penalty if expedited relief was unwarranted.
- First eviction hearing is very rarely evidentiary. Will be set for an evidentiary hearing with tenant required to bond-over due and accruing rent.

SECURITY DEPOSITS

- Within 21 days of the end of the tenancy, a landlord must:
 - Return the entirety of a tenant's security deposit, with interest, OR
 - Provide a written explanation why any portion of the security deposit is being withheld.
- Failure to comply can result in the landlord being liable for twice the amount of the security deposit withheld plus an additional civil penalty of up to \$500.

SECURITY DEPOSITS (CONT.)

- A security deposit can only be withheld all or in part the amounts reasonably necessary:
 - To remedy any nonpayment of rent or fees by the tenant, or
 - To restore the tenancy to the condition at the commencement of tenancy, **ordinary wear and tear excepted.**
- Anticipated lifespans:
 - Rental Grade Carpet: 5-7 years
 - Paint: 3-5 years (touchups are normally required)
 - Vinyl Flooring: 10-15 years
- Cleaning: document labor and supplies. Limit labor to \$25/hour unless professionals need to be hired.

ABANDONED PROPERTY

- A landlord **MUST** store all personal property left behind by a tenant.
- A landlord can charge a tenant all moving, storage, and care costs. However, a landlord cannot require the tenant to pay the costs before getting their property back.
- 28 days after the property has been abandoned, a landlord can dispose of the property.
- A landlord must make a reasonable effort to give a tenant 14-day notice of intent to dispose or sell.
- Notice accomplished by first-class and certified mail to last known address.

QUESTIONS?

- Feel free to reach out with questions at (320) 654-8000 or jess@hellerthyen.com



Q & A

Tenant Hotline:

Phone: 612-728-5767

Online: homelinemn.org/email

- HOME Line ofrece servicios en español. Para Español, llame al 612-255-8870.
- HOME Line waxay bixisaa adeeg ku baxa Afka-Soomaaliga. Af- Soomaali wac 612-255-8860.
- Peb lub koom haum HOME Line muaj neeg txhais lus Hmoob. Hais lus Hmoob, Hu 612-255-7104.



Thank You