

HOUSE HUMAN SERVICES AND HOUSING COMMITTEE

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John VanLandingham, Lane County Legal Aid/Oregon Law Center

How Landlords Terminate Residential Tenancies in Oregon and How Evictions Work

Kinds of residential tenancies

- Week to week – e.g., residential motels
- Month to month
 - Primary form of tenancy in Oregon
 - Goes on forever unless/until one side terminates
 - L can raise rent with 90-day notice
- Fixed term tenancies, commonly called leases
 - Not as common as month to month; primarily used with students or high-end rentals
 - Has a fixed ending date, unless it calls for roll-over; no termination notice required
 - No unilateral rent increase allowed

Terminations of tenancy

- For cause – **see accompanying list of eight different causes**; can be used with both month to month and fixed term tenancies
- No cause
 - Can only be used in a month to month tenancy
 - Notice must be at least 30 days during the first year of occupancy, 60 days after the first year
 - Landlord need not state a reason for the termination

- Limited tenant defenses
 - Technical, e.g., the notice is for less than 30 days; result is usually a new/correct notice
 - Retaliation, e.g., the tenant complained about repairs or rebuffed the landlord's sexual advances
 - Discrimination, e.g., because the tenant has children or is Catholic or a guest is Hispanic or disabled

What happens after a termination notice?

- Most tenants leave within the notice period
 - No data; no one records termination notices
 - Reasons why tenants move without contesting the termination: They know they don't have a defense, fear that future landlords will hold a legal defense against them, lack of access to legal advice or they don't know their rights, fear of the court process or the costs
- If the tenant does not leave voluntarily, the landlord can file an eviction lawsuit, called an FED
 - Whether, and when, is up to the landlord
 - FED timelines, once filed, and the process are prescribed by state law
 - Very quick lawsuit; **see accompanying calendar**
 - Attorneys are allowed for either side, but are rare; statutes are written with lay people in mind
 - If attorneys are used, the prevailing party can make the losing party pay the winner's attorney fees
 - If the tenant wins, the tenant retains possession
 - If the landlord wins, the landlord gets a judgment which requires the tenant to vacate the dwelling unit, and which the landlord can then use to have the sheriff physically remove the tenant.

Observations

- The quickest way to evict a bad tenant is with a 24-hour termination notice. The slowest way is with a 60-day no-cause termination notice. In either case, the FED process can't start until the notice period runs.
- Unless an FED is filed – unless the tenant fails to vacate during the notice period -- termination notices do not show up on a tenant's credit record, so it doesn't matter what the basis of the termination is to the tenant, in terms of credit. If an FED is filed, the filing of that FED will show up on one's credit report; it is a public record, as is the termination notice attached to the landlord's FED complaint. But the credit report doesn't include a copy of the termination notice.
- Who goes to court?
 - There is no reliable data; compiling data would require surveying the court records of each county
 - Anecdotally, the sense of Legal Aid lawyers is that most FEDs are decided by default, meaning that the tenant does not show up or contest the landlord's termination.
 - Legal Aid lawyers did survey FED files in Multnomah County in September 2016. The review found that 87 percent of the cases filed were for nonpayment of rent (72-hour notice), 6 percent were based on no-cause termination notices, 5 percent on for-cause termination notices, and 2 percent were other.