

Landlord/Tenant Rent Escrow

Please read section 5321 of the Ohio Revised Code (attached). It will explain what must occur in order for the Court to intervene in a situation such as yours.

As you can see from reading this section, you cannot simply stop paying rent to your landlord. There are specific conditions that must exist, and certain steps that **you must take before the Court can become involved.**

Written communication should be sent by certified mail, and should list in detail your specific complaints. You must also notify the landlord that you intend to make application to Municipal Court to pay your rent into an escrow account if the complaints are not corrected in 30 days.

You should be able to provide the Court with a copy of the letter sent to the landlord and also proof that the letter was sent by certified mail (green card).

If, after 30 days, the item(s) listed in your letter have not been corrected, you may bring all of the above information, and your rent money, to the Clerk of Courts office. You will be asked to fill out an application, and will receive a receipt for your rent money.

If you have more specific questions, you must contact an attorney, and they will advise you as to the proper way to proceed.

§ 5321.04. Obligations of landlord.

(A) A landlord who is a party to a rental agreement shall do all of the following:

- (1) Comply with the requirements of all applicable building, housing, health, and safety codes that materially affect health and safety;
- (2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;
- (3) Keep all common areas of the premises in a safe and sanitary condition;
- (4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by him;
- (5) When he is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of a dwelling unit, and arrange for their removal;
- (6) Supply running water, reasonable amounts of hot water and reasonable heat at all times, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection;
- (7) Not abuse the right of access conferred by division (B) of section 5321.05 of the Revised Code;
- (8) Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of his intent to enter and enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary.
- (9) Promptly commence an action under Chapter 1923. of the Revised Code, after complying with division (C) of section 5321.17 of the Revised Code, to remove a tenant from particular residential premises, if the tenant fails to vacate the premises within three days after the giving of the notice required by that division and if the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in that division. Such actual knowledge or reasonable cause to believe shall be determined in accordance with that division.

(B) If the landlord makes an entry in violation of division (A)(8) of this section, makes a lawful entry in an unreasonable manner, or makes repeated demands for entry otherwise lawful that have the effect of harassing the tenant, the tenant may recover actual damages resulting from the entry or demands, obtain injunctive relief to prevent the recurrence of the conduct, and obtain a judgment for reasonable attorney's fees, or may terminate the rental agreement.

HISTORY: 135 v S 103 (Eff 11-4-74); 143 v S 258. Eff 8-22-90.

§ 5321.07. Notice to landlord to remedy condition; deposit of rent with court or other remedies.

(A) If a landlord fails to fulfill any obligation imposed upon him by section 5321.04 of the Revised Code, other than the obligation specified in division (A)(9) of that section, or any obligation imposed upon him by the rental agreement, if the conditions of the residential premises are such that the tenant reasonably believes that a landlord has failed to fulfill any such obligations, or if a governmental agency has found that the premises are not in compliance with building, housing, health, or safety codes that apply to any condition of the premises that could materially affect the health and safety of an occupant, the tenant may give notice in writing to the landlord, specifying the acts, omissions, or code violations that constitute noncompliance. The notice shall be sent to the person or place where rent is normally paid.

(B) If a landlord receives the notice described in division (A) of this section and after receipt of the notice fails to remedy the condition within a reasonable time considering the severity of the condition and the time necessary to remedy it, or within thirty days, whichever is sooner, and if the tenant is current in rent payments due under the rental agreement, the tenant may do one of the following:

(1) Deposit all rent that is due and thereafter becomes due the landlord with the clerk of the municipal or county court having jurisdiction in the territory in which the residential premises are located;

(2) Apply to the court for an order directing the landlord to remedy the condition. As part of the application, the tenant may deposit rent pursuant to division (B)(1) of this section, may apply for an order reducing the periodic rent due the landlord until the landlord remedies the condition, and may apply for an order to use the rent deposited to remedy the condition. In any order issued pursuant to this division, the court may require the tenant to deposit rent with the clerk of court as provided in division (B)(1) of this section.

(3) Terminate the rental agreement.

(C) This section does not apply to any landlord who is a party to rental agreements that cover three or fewer dwelling units and who provides notice of that fact in a written rental agreement or, in the case of an oral tenancy, delivers written notice of that fact to the tenant at the time of initial occupancy by the tenant.

(D) This section does not apply to a dwelling unit occupied by a student tenant.

HISTORY: 135 v S 103 (Eff 11-4-74); 143 v S 258 (Eff 8-22-90); 145 v H 438. Eff 10-12-94.

§ 5321.08. Duties of clerk of court.

- (A) Whenever a tenant deposits rent with the clerk of a court as provided in section 5321.07 of the Revised Code, the clerk shall give written notice of this fact to the landlord and to his agent, if any.
- (B) The clerk shall place all rent deposited with him in a separate rent escrow account in the name of the clerk in a bank or building and loan association domiciled in this state.
- (C) The clerk shall keep in a separate docket an account of each deposit, with the name and address of the tenant, and the name and address of the landlord and of his agent, if any.
- (D) For his costs, the clerk may charge a fee of one per cent of the amount of the rent deposited, which shall be assessed as court costs.
- (E) All interest that has accrued on the rent deposited by the clerk of a county court under division (B) of this section shall be paid into the treasury of the political subdivision for which the clerk performs his duties. All interest that has accrued on the rent deposited by the clerk of a municipal court under division (B) of this section shall be paid into the city treasury as defined in division (B) of section 1901.03 of the Revised Code.

HISTORY: 135 v S 103 (Eff 11-4-74); 136 v H 49. Eff 9-1-75.

§ 5321.09. Landlord may apply for release of rent.

(A) A landlord who receives notice that rent due him has been deposited with a clerk of a municipal or county court pursuant to section 5321.07 of the Revised Code, may do any of the following:

(1) Apply to the clerk of the court for release of the rent on the ground that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied. The clerk shall forthwith release the rent, less costs, to the landlord if the tenant gives written notice to the clerk that the condition has been remedied.

(2) Apply to the court for release of the rent on the ground that the tenant did not comply with the notice requirement of division (A) of section 5321.07 of the Revised Code, or that the tenant was not current in rent payments due under the rental agreement at the time the tenant initiated rent deposits with the clerk of the court under division (B)(1) of section 5321.07 of the Revised Code.

(3) Apply to the court for release of the rent on the ground that there was no violation of any obligation imposed upon the landlord by section 5321.04 of the Revised Code, other than the obligation specified in division (A)(9) of that section, any obligation imposed upon him by the rental agreement, or any obligation imposed upon him by any building, housing, health, or safety code, or that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied.

(B) The tenant shall be named as a party to any action filed by the landlord under this section, and shall have the right to file an answer and counterclaim, as in other civil actions. A trial shall be held within sixty days of the date of the filing of the landlord's complaint, unless, for good cause shown, the court continues the period for trial.

(C) If the court finds that there was no violation of any obligation imposed upon the landlord by section 5321.04 of the Revised Code, other than the obligation specified in division (A)(9) of that section, any obligation imposed upon him by the rental agreement, or any obligation imposed upon him by any building, housing, health, or safety code, that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied, that the tenant did not comply with the notice requirement of division (A) of section 5321.07 of the Revised Code, or that the tenant was not current in rent payments at the time the tenant initiated rent deposits with the clerk of court under division (B)(1) of section 5321.07 of the Revised Code, the court shall order the release to the landlord of rent on deposit with the clerk, less costs.

(D) If the court finds that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code was the result of an act or omission of the tenant, or that the tenant intentionally acted in bad faith in proceeding under section 5321.07 of the Revised Code, the tenant shall be liable for damages caused to the landlord and costs, together with reasonable attorney's fees if the tenant intentionally acted in bad faith.

HISTORY: 135 v S 103 (Eff 11-4-74); 143 v S 258. Eff 8-22-90.

§ 5321.05. Obligations of tenant.

(A) A tenant who is a party to a rental agreement shall do all of the following:

- (1) Keep that part of the premises that he occupies and uses safe and sanitary;
- (2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;
- (3) Keep all plumbing fixtures in the dwelling unit or used by him as clean as their condition permits;
- (4) Use and operate all electrical and plumbing fixtures properly;
- (5) Comply with the requirements imposed on tenants by all applicable state and local housing, health, and safety codes;
- (6) Personally refrain and forbid any other person who is on the premises with his permission from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the premises;
- (7) Maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliances supplied by the landlord and required to be maintained by the tenant under the terms and conditions of a written rental agreement;
- (8) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises;
- (9) Conduct himself, and require persons in his household and persons on the premises with his consent to conduct themselves, in connection with the premises so as not to violate the prohibitions contained in Chapters 2925. and 3719. of the Revised Code, or in municipal ordinances that are substantially similar to any section in either of those chapters, which relate to controlled substances.

(B) The tenant shall not unreasonably withhold consent for the landlord to enter into the dwelling unit in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels that are too large for the tenant's mail facilities, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(C) (1) If the tenant violates any provision of this section, other than division (A)(9) of this section, the landlord may recover any actual damages that result from the violation together with reasonable attorney's fees. This remedy is in addition to any right of the landlord to terminate the rental agreement, to maintain an action for the possession of the premises, or to obtain injunctive relief to compel access under division (B) of this section.

(2) If the tenant violates division (A)(9) of this section and if the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in that

division, then the landlord promptly shall give the notice required by division (C) of section 5321.17 of the Revised Code. If the tenant fails to vacate the premises within three days after the giving of that notice, then the landlord promptly shall comply with division (A)(9) of section 5321.04 of the Revised Code. For purposes of this division, actual knowledge or reasonable cause to believe as described in this division shall be determined in accordance with division (A)(6)(a)(i) of section 1923.02 of the Revised Code.

HISTORY: 135 v S 103 (Eff 11-4-74); 143 v S 258. Eff 8-22-90.

