

Glossary

Abatement: A rent or tax *abatement* is a reduction in the amount of rent or tax due.

Actual Damages: Money awarded by the court to compensate a party for loss or injury.

Affidavit: A written statement that a person signs, swearing that the information in the statement is the truth.

Affidavit of Indigency: A sworn statement that you sign that says you cannot afford to pay court fees and costs.

Agreement for Judgment: An agreement made by both parties that a judge accepts and treats as a court decision (*judgment*).

Answer: A court document that a *defendant* files in response to a *plaintiff's complaint* in a lawsuit.

Answer Date: The date your *Answer* document in a court case is due to be delivered to the court and to the landlord (or the landlord's lawyer, if she has one).

Appeal or Appealing: A request that a higher authority review an administrative or judicial decision. For example, an *appeal* in court means that a higher court reviews the decision of a lower court to correct errors in how the lower court applied the law or court procedures.

Appeal Bond: Money that a party must pay in order to *appeal* a case.

Appellant: The party who is *appealing* a case and making the request that a higher court review a lower court's decision. The *appellant* is usually the losing party in a lower court case.

Appellee: The party who is not *appealing* a case, but against whom an *appeal* is being filed. The *appellee* is usually the winning party in the lower court case.

Arraign or Arraignment: The first formal step in a criminal case where the *defendant* is brought before the court to hear the charges and to enter a *plea*.

Arrears or Arrearage: The amount that is unpaid or overdue. Rent *arrears* is the amount of rent owed. Mortgage *arrears* is the amount of mortgage owed.

Assign: To transfer one's property or rights under a contract or lease to another person. For example, when you *assign* your lease, you permanently move out and let someone else take over your lease (the "assignee").

Attachment: A legal method by which one party in a lawsuit asks a court to prevent the other party from selling or transferring property that could later be used to satisfy a money *judgment*.

Breach: To break a promise or violate an agreement or the law.

Certified: A copy of a document or record that has been signed and sworn to as a true copy.

Certified Mail: A special type of mail delivery that allows the sender proof of mailing, as well as proof of delivery. Certified mail provides the sender with a copy of the recipient's signature, which is obtained at the time of delivery.

Claim: The legal challenges or reasons you use to bring a lawsuit or defend against a lawsuit. You may have a number of *claims* in a lawsuit.

Class Action: A lawsuit brought by one or more people on behalf of a larger group of individuals in the same legal situation.

Collective Bargaining Agreement: In the context of housing, a contract that is negotiated between a landlord and an organized group of tenants that sets forth various agreements, such

as a schedule of rent increases. *Collective bargaining* was a strategy that grew out of the labor movement and is now being adopted by organized tenants.

Compensatory Damages: An award of money that compensates a person for the loss or injuries that she has suffered.

Complaint: A document filed with a court or agency to start a legal action. See also *Summons and Complaint*.

Contempt: A willful disregard or disobedience of a court order.

Continuance or **Continue:** A postponement of a legal proceeding. To *continue* a case means to postpone it.

Counterclaim: A legal *claim* made by a *defendant* in a lawsuit that countersues the *plaintiff*.

Cross-examination: The questioning of a witness at a *deposition*, *trial*, or *hearing* by the party who did not originally call the witness to testify.

Cross-metering: When the electric or gas meters of two apartments are completely crossed such that each tenant is being billed for the other tenant's utilities.

Damages: Money. If you sue your landlord, the court can award you money *damages*. See *actual damages*, *compensatory damages*, and *punitive damages*.

Deed: The document that is legal proof and record of who owns property. A new *deed* is written every time the ownership of property changes.

Defaulted or **Default Judgment:** A court decision in favor of one party in a lawsuit if the other either failed to respond to a *complaint* within the time required by law or failed to appear in court on the date of the *hearing*.

Defendant: The person defending or being sued. A tenant is the *defendant* in an eviction case. The person being charged with a crime is the *defendant* in a criminal case.

Defense: A legal reason that a *defendant* should not be held responsible for a legal *claim* made by a *plaintiff*.

Demand Letter: A letter by which one party explains its legal position in a dispute and requests or demands that the recipient take some action or else risk being sued.

Deposition: A type of *discovery* that allows parties in a lawsuit to get information from the other side by asking questions, usually in a face-to-face interview. The answers are recorded by a stenographer, and the person responding is under oath to tell the truth.

Discretion: The power to decide based on one's own view of what is fair. If an agency has *discretion*, it has the freedom to choose its own course of action, usually based on certain guidelines.

Discovery: Legal ways to gather information before a *trial*. A legal process before trial that allows parties in a lawsuit to get information from one another. *Discovery* includes: *Interrogatories*, *Request for Admissions*, *Request for Production of Documents*, and *Depositions*.

Dismiss: To end a court case without a complete *trial*.

Due Process: Fundamental fairness. Substantial justice.

Entry Date: The date in an *eviction* action by which the landlord must file the *complaint*, *filing fee*, and other necessary papers with the court.

Equity or **Equitable Relief:** Principles of fairness and justice. In courts that allow *equitable relief*, judges can order a person to fix a problem by requiring her either to do something or to stop doing something. An *injunction* is a type of equitable relief. Money is not a type of equitable relief.

Evict, Eviction: To remove a tenant and take possession of rental property. For a landlord to evict a tenant, a landlord must go through a certain process. First the landlord must properly *terminate a tenancy*, and then to get possession the landlord must use a court process referred to as *summary process*.

Execution: A paper issued by the court clerk's office that allows a landlord to have a sheriff or constable physically remove a tenant and her belongings from her home. A landlord can get an *execution* only after a *judgment* is made by the court or by an agreement of the landlord and tenant filed with the court.

Exempt, Exemption: A category of something that is NOT included. If a landlord is *exempt* from a law, she is not covered by that law.

Fair Hearing: A hearing process available at agency and conducted by a impartial party according to basic principles of *due process*, which generally include certain the right to present evidence.

Fair Market Rent (FMR): The maximum rents for HUD's Section 8 program. *FMRs* vary from area to area. (Generally, *FMRs* represent slightly over the median rents for a geographic area.) A tenant's share of her rent combined with the amount of her subsidy and the amount of her utility payments may not exceed the *FMR* for the area. HUD determines new *FMRs* once a year.

Fair Market Value and Fair Rental Value: *Fair market value* is the value of an apartment in good condition. *Fair rental value* is the value of an apartment with all of its problems. If a judge finds that a landlord has breached the *warranty of habitability*, the measure of *damages* is the differences between the *fair market value* and the *fair rental value*.

Fee Waiver: Permission from the court to file a court case or an *appeal* without paying the required *filing fee*.

Filing Fee: The amount of money one is required to pay to the clerk to begin a case.

Foreclose or Foreclosure: When a person owns property and does not pay the mortgage, the lender (usually a bank) can terminate that person's right to own the property (*foreclose*). When a lender forecloses, it can sell or auction off the property to pay off the mortgage loan.

Foreclosure deed: The document that is legal proof and record of who bought a property at a foreclosure sale.

Grievance: A grievance is a *complaint* that one files.

Grounds: The legal reasons on which a lawsuit is based.

Guardian ad litem: A person (often a lawyer) appointed by the court to appear in a lawsuit on behalf of an incompetent person or a child.

Head of Household: In the context of housing, the *head of household* is the person who assumes responsibility for the lease by signing it.

Hearing: A formal process where a judge, a hearing officer, or other officials listen to the parties, consider evidence, and make a ruling or decision. In *eviction* cases, the *hearing* is the same thing as a *trial*.

Hearsay: Testimony of what a witness heard someone else say out of court. A statement about which a witness does not have firsthand knowledge. Some *hearsay* will be allowed into evidence by the court. Other hearsay will not be admissible.

Holding Over: When a tenant remains on the property without the permission of the landlord after the end or *termination* of their *lease* or *tenancy*. See *Tenant at Sufferance*.

Housing Authority: A government entity that owns and operates government-funded housing. A *housing authority* may administer other housing programs, as well.

Housing Court: A specialized court that decides housing-related matters.

HUD: The United States Department of Housing and Urban Development. *HUD* funds federal housing programs and establishes and enforces policies related to those programs.

Indigent: Poor. Financially needy. People who meet certain Federal Poverty Guidelines can file a form called an *Affidavit of Indigency* to ask a court not to require them to pay court costs and fees.

Injunction: An *order* by a court that compels someone to do something (like make a repair) or not to do something (like not lock you out of your apartment).

Indemnification: Compensation by one party for a loss or damage suffered by another party.

Interrogatories: A type of *discovery* in which parties to a lawsuit submit written questions to one another that must be answered in writing and under oath.

Intervene: To enter a lawsuit as a third party who, despite not being named a party in the action, has a personal stake in the outcome.

Judgment: The official and final decision of a judge after a case is heard.

Jurisdiction: The authority that a court has to hear cases. For example, a housing court has *jurisdiction* over matters involving housing.

Lease: A written agreement between a landlord and a tenant that contains the terms of the *tenancy* and is for a fixed period of time.

Lessee: Tenant.

Lessor: Landlord.

Liable or Liability: Legally responsible. A legal obligation. For example, legal responsibility for paying a bill or legal responsibility for someone having suffered a loss.

Liability waiver: An agreement not to hold someone responsible for any damages they caused or laws they violated.

Lien: When a piece of property is used as security for the owner's debt or possible debt. The security interest is called a *lien*, which is placed on the property of the owner (debtor) and is held by a creditor (lienholder). If the debt is not paid, the person or entity who holds the lien can take the property in order to pay off the debt. A *mortgage* is one kind of lien; an *attachment* is another. Liens must be recorded at the Registry of Deeds. (See also *warehouse's lien*.)

Lienor of Record: Person or entity with a lien on the property of another. For example, a bank with a *mortgage* (which is a type of lien) is the *lienor of record* when it registers the mortgage with the Registry of Deeds.

Management Company: A company that is hired by the owner of property to manage the property, collect rents, and take care of repairs.

Median Income: The income that marks the middle income of a particular geographic area. For example, the *median income* in your town would be the income where 50% of the people have more than a certain amount and 50% have less. (Note: *Median income* is not the average amount of everyone's income added together.)

Mediation, Mediator: Informal alternative to resolving disputes before they go before a judge in which both sides meet with a neutral third party, the *mediator*, to negotiate a resolution.

Mitigating Circumstance: Circumstances surrounding an act which in fairness can be considered in making a decision.

Mortgage: An ownership interest in property given to a lender by a borrower to support a promise, usually to pay back a loan. If the borrower breaks the promise and does not repay the loan, the lender is allowed to *foreclose* and sell the property to get the money back. A *mortgage* is not the actual money lent. It is a legal document that represents the lender's ownership interest. The person borrowing the money is called a *mortgagor*. The lender is called a *mortgagee*.

Mortgagee: A person or entity (such as a bank) that lends money and holds the *mortgage* until the person who borrows the money repays it.

Mortgagor: Person who borrows money in order to purchase property and in exchange pledges the property to the lender (*mortgagee*) while paying back the loan.

Motion: A written or verbal request to a court to make a specific ruling or *order*.

Motion to Dismiss: A formal request filed with the court asking a judge to throw out, or *dismiss*, a case or *claims* within a case.

No-Fault Eviction: Where a landlord is evicting a tenant who has done nothing wrong. For example, if a landlord wants to reclaim an apartment for a family member and have the tenant move out, this would be a no-fault eviction. The tenant has done nothing wrong.

Notice to Quit: A written notice from a landlord to a tenant that officially *terminates a tenancy*. However, if you receive a *notice to quit*, this does not mean you have to move out by the date on the notice. A landlord must always get a court's permission to move a tenant out.

Order: Written command by a judge or court clerk describing a decision of the court.

Ordinances: Local laws of a city or town.

Original Trial Date: The day the *summons and complaint* tells you that your *eviction* case is scheduled for a *trial*. If it is unclear from the summons, you may need to call the court. If you file and sent *discovery* by the *answer date*, the court will automatically reschedule the *original trial date* and postpone it for two weeks.

Plaintiff: The person who brings a lawsuit. The landlord is the *plaintiff* in an *eviction* case.

Pleading: A formal written statement or document submitted to the court that usually contains the *claims* or *defenses* of the party in a lawsuit. Includes *complaints*, *answers*, and *motions*.

Possession: A right to occupy. A landlord cannot take occupancy (*possession*) away from a tenant without a court's permission.

Preliminary Injunction: A temporary *order* that a court issues to someone to stop doing something illegal or to take action to correct a problem.

Pro Se: To represent yourself without the assistance of a lawyer (from Latin meaning "for oneself," on one's own behalf).

Punitive Damages: Money awarded by a court to a party in a lawsuit to punish the other side for the wrong that it committed and to compensate the party receiving the *damages* for injuries over and above their actual loss.

Quiet Enjoyment: A tenant's right to be free from unreasonable interference with the use of her home.

Reasonable Accommodation: The legal requirement that a landlord provide some services or equipment or change a *lease* or rules about *tenancies* to allow a handicapped tenant to remain in her home.

Receiver, Receivership: A person or organization appointed by a court to temporarily manage a property that, for example, has fallen into disrepair.

Registered Mail: Mail that the U.S. Postal Service records at the time of mailing and at each point on its route in order to guarantee its safe delivery.

Registry of Deeds: The official written collection of property records that the local jurisdiction (usually county) records and administers.

Remedy: The legal way of addressing or compensating someone for having suffered an injustice or violation of law.

Rent Day: The day your rent is due.

Rental Period: The days between when rent payments are due.

Request for Admissions: A form of *discovery* in which one party in a lawsuit gives another party a list of statements in writing and asks that party either to admit or deny the truth of those statements.

Request for Production of Documents: A form of *discovery* in which one party in a lawsuit asks another party in writing to allow her to see or get copies of documents that the other party has.

Rescheduled Trial Date: The new court date. If you request *discovery* from your landlord, your *original trial date* will automatically be postponed for two weeks to a *rescheduled trial date*.

Restraining Order: A temporary or permanent *order* by a court that prevents someone from doing something. See *Temporary Restraining Order*.

Retaliate, Retaliation, Retaliatory: Harassing or taking some action against someone because that person exercised her legal rights.

Retroactivity: Looking backward, pertaining to matters that have occurred in the past.

Serve or Service: Delivery of a legal document, usually by a sheriff or constable who is officially authorized to deliver legal documents. In a lawsuit, a court requires certain documents, such as *summonses* and *complaints*, to be served.

Statute of Limitations: A law that sets a deadline for filing a lawsuit. The deadline varies, depending on the type of lawsuit.

Stay or Stay of Execution: An order delaying an *eviction*. A judge may delay (*stay*) an *order* or *execution* to evict a tenant to give a person more time to move.

Subpoena: The document that requires a witness to appear before a court and give testimony. A document called a "Subpoena Duces Tecum" requires a person to bring specified documents to court.

Summary Process: The special court process used to evict a tenant.

Summons and Complaint: The document a party uses to begin a lawsuit. The *summons and complaint* tells you when and why you must be in court.

Temporary Restraining Order or TRO: An *order* that a court issues in an emergency situation for someone to stop doing something illegal or for someone to take action to correct a problem. Usually, the *temporary restraining order* will last for only 10 days.

Tenancy: The legal relationship between a landlord and a tenant.

Tenant at Sufferance: A tenant who remains on the property without the permission of the landlord after her *lease* or *tenancy* expires, also called *holding over*.

Tenant at Will: A tenant without a lease.

Tenant by Regulation: A public or subsidized housing tenant to whom regulations (official rules issued by an agency) apply.

Tenant Petition: A civil *complaint* used to enforce the state Sanitary Code. A tenant petition can also be used to sue for *damages*.

Terminate (Termination of) a Tenancy: A process by which a landlord or a tenant formally ends a *tenancy*, but that does not determine whether a landlord or tenant should have *possession*. Only a court can determine who should have possession.

Transfer: Procedure by which a *defendant* can have a case moved to another court.

Trial: A formal *hearing* in court in front of a judge during which parties present evidence (live testimony and/or documents) and at the end of which a judge makes a final decision.

Trust: A right to the benefit of property that is legally held and administered by one party (the *trustee*) for the benefit of another.

Trustee: A person or company who has legal title to property being held in trust and who must administer it for the benefit of another party.

Use and Occupancy (or Occupation):

The legal term for rent after a *tenancy* has been terminated.

Vendor Payment: Rent or other payments (such as for utilities) that are deducted directly from a tenant's public assistance grant.

Venue: The court where a case will be heard. For example, if the parties or the property involved in a case are located in a town or city covered by a particular court, that court is the *venue* that has the authority to hear that case.

Void: Having no legal force. Unenforceable.

Voidable: An act or contract that is in effect until it has been declared to have no legal effect by a judge.

Waive, Waiver: To voluntarily give up. For example, if your landlord accepts rent from you without protest while she knows that you have a pet in a no-pet tenancy, your landlord *waives* (gives up) her right to evict you for having a pet.

Warehouser's Lien: A legal right that the owner of a warehouse has that covers reasonable storage fees and expenses of putting a tenant's belongings into storage.

Warranty of Habitability: The legal obligation your landlord has to make sure your home is in decent condition (*habitable*) and meets the requirements of the state sanitary code. If your landlord *breaches* the *warranty of habitability*, you may be entitled to a reduction in your rent.

With and Without Prejudice: When a case or *claim* is dismissed or denied *with prejudice*, a person cannot raise or argue the same claim in this or another case. *Without prejudice* means that the case or claim may be raised or argued again later on.

