

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.

Representative Payee: A person or organization who is appointed or hired to receive and manage government benefits for a person who may be unable to manage their own benefits

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.

Settlement: An agreement between disputing parties in a lawsuit that resolves the case.

Sometimes settlements are called agreements or *agreements for judgments*.

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.

