

Tenants' Rights - Overview

Read information for Tenants during the COVID-19 State of Emergency [here](#) ^[1].

Your Rights As A Tenant in New Hampshire

When you rent housing, there are many laws that affect your relationship as a tenant with the landlord. This article is about some of those laws.

Rental Agreements - Leases

Leases

Although a rental agreement can be written or oral, “lease” usually means a written rental agreement for a specific time, usually one year.

For a tenant, the main advantage of a written lease is that your rent cannot be raised and you cannot be evicted during that year, as long as you abide by the lease. The main disadvantage is that you may have to pay the rent for extra months if you move before the lease ends.

Read the lease carefully before you sign, and ask about anything you do not understand. If rent is shared, anyone who signs the lease may have to pay the total rent, not just his or her portion. If your lease expires and you are not offered a new one, you become a month-to-month tenant.

Month-to-month tenant

If you do not have a lease, the landlord can increase the rent, but must give written notice of the increase (or any other significant change), 30 days in advance. Likewise, you can leave without continuing to owe rent as long as you give the landlord 30 days’ notice.

In most situations a month-to-month tenant cannot be evicted without good cause. Please read our [A Walk Through the Eviction Process](#) ^[2] article for a list of the reasons that you can be evicted.

Security deposits

Your landlord may require you to pay a security deposit. The amount of the security deposit in most cases cannot be more than what you pay for one month’s rent. Your landlord must return your deposit within 30 days after you leave. Please see our [Security Deposits](#) ^[3] article for more information about the laws affecting your security deposit.

Note: Be sure to get receipts for all payments you make, especially if you pay in cash

Housing Standards

New Hampshire law requires landlords to provide safe, sanitary housing for tenants. A state law [RSA 48-A:14](#) ^[4] spells out minimum standards for rental property.

You have the right to a home that has:

1. No infestation of bugs, mice, or rats.
2. Internal plumbing that works without a back-up of sewage caused by a faulty septic or sewage system.
3. Safe wiring without exposed wires, the wrong connectors, bad switches or outlets, or other conditions that create a danger of electrical shock or fire.
4. Roofs and walls that do not leak.
5. Plaster that is not falling from the walls or ceilings.
6. Floors, walls, or ceilings with no large holes.
7. Porches, stairs, and railings which are structurally sound.
8. No garbage or rubbish in common areas due to the landlord's failure to remove it or to provide enough containers for storage before the trash is to be taken away. This is a code violation unless you have accepted responsibility for trash removal under the lease.
9. Enough water, and a water heater that works properly.
10. No leaks in the gas lines, or leaks, or defective pilot lights in any appliance furnished by the landlord.
11. Heating facilities that are properly installed, safely maintained, and in good working condition, and that can safely and adequately heat all livable rooms and bathrooms to an average temperature of at least 65 degrees. Or if heat is included in the rent, the premises must be kept at a minimum average temperature of 65 degrees in all livable rooms.

Your local community, particularly a city or larger town, may have its own housing code, which can require your landlord to do more. Ask at your town or city hall if your town has a housing code.

Lead paint

You have a right to live in housing that is free from lead paint hazards. To find out if your apartment is safe, contact your town Code Enforcement Officer. To find out more about the hazards of lead paint, call the Childhood Lead Poisoning Prevention Program at 603-271-4507.

See the [NH DHHS site](#) ^[5] for information for property owners, parents, and tenants.

Mold

Mold is not a state code violation in New Hampshire. But some towns and cities have municipal housing codes that require landlords to remediate (fix) a mold problem. Ask your local code enforcement department if it requires landlords to fix mold problems. You can get the phone number to your local code enforcement department by calling NH Helpline at 211 (just dial 2-1-1).

Apply for legal assistance if:

1. your landlord does not obey any order from your town or city by the deadline the landlord was given,

2. your landlord has sent or left any papers for you like a Demand for Rent or Eviction Notice or Landlord/Tenant Writ,
3. you are thinking about not paying the rent because of mold or other conditions.

If mold is your **ONLY** problem and if you think the mold has made you sick or hurt you in some way, call a lawyer. A lawyer can see if you have a case that, if you win, will make your landlord pay for your lawyer (called a “fee-generating case”). Legal Aid cannot take fee-generating cases.

Read the law: [RSA 48-A](#) ^[6].

Request for repairs

Make all requests for repairs in writing (be sure to date it), make a copy for yourself, and give it to the landlord. If the landlord fails to make the proper repairs, report any serious problems to the town. The town or city clerk can direct you to the proper officials, usually the Code Enforcement Officer, Health Officer, or Building Inspector. Report fire hazards to the local Fire Chief.

Withholding rent

If the violations (problems with your apartment) are serious, you may want to consider withholding rent in order to get your landlord to correct code violations.

Note: Always put the rent money aside and keep it in a safe place because it is likely that some or all of it will have to be paid to the landlord once the repairs are made.

You can lawfully withhold your rent if **all** of the following conditions are met:

1. Written notice. You gave your landlord written notice of the violations while you were not behind in rent. (Written notice is not an absolute requirement, but is always a good idea); AND
2. The landlord failed to take corrective action within 14 days of your written complaint. In an emergency, you may not have to wait 14 days before you begin withholding. Consult an attorney before you withhold rent in less than 14 days; AND
3. Your family or guests did not cause the violation; AND
4. Extreme weather conditions did not prevent the repairs; AND
5. You did not refuse to let the landlord into your apartment to make the repairs.

If your landlord tries to evict you for non-payment and you can prove you withheld your rent under the above conditions, the Court can postpone the hearing to give the landlord time to make repairs, and eventually dismiss the eviction. See our [Withholding Rent page](#) ^[7] for more information.

Or, if you are being evicted because you withheld your rent, click below to fill out an Answer and Request for Continuance.

Click this button to fill out your Answer form right now.

Create my form

^[8]

Tenant Protections

It is against the law [RSA 540-A](#) ^[9] for a landlord to:

1. Shut off your utilities;
2. Lock you out of your rented premises without a court order;

3. Enter your residence without permission, except to make emergency repairs. (You should not refuse your landlord's reasonable request to enter with enough notice);
4. Take any other action to force you out of your home without going through the eviction process.

What can you do if your landlord has done any of the things listed above?

You can get an order to make your landlord stop, and to award you damages, by [filing a 540-A petition](#) ^[10] at your local district court. You do not need a lawyer nor to pay a fee to file the Petition; simply ask the clerk to help you. You can ask for a Temporary Order if there is an immediate threat of serious harm. The Court will schedule a hearing to hear from both sides, and will then decide if you should get damages and if the order should be continued. Contact 603 Legal Aid for more information on filing a petition.

Eviction rights

In most cases your landlord has to have good cause to evict you. Please read our article [A Walk Through the Eviction Process](#) ^[2] for a description of the reasons you can be evicted.

Retaliatory evictions

You cannot be evicted in retaliation for exercising any of the following legal rights:

1. Reporting a serious code violation to a landlord or public official;
2. Lawfully withholding rent;
3. Meeting with or organizing other tenants.

Your landlord cannot evict you if you can prove the reason for the eviction was that you exercised one of these legal rights. If an eviction is begun within six months after one of these actions, it will be considered retaliatory unless your landlord can show some other good reason for the eviction.

For example, if you owe more than one week's rent at the time of the eviction. Keep copies of everything that you give to your landlord or to officials.

Note: Landlords cannot refuse to rent to anyone because of race, creed, age, sex, national origin, marital status, physical or mental handicap, or to families with children.

For more information on housing discrimination, contact The Fair Housing Project at [NH Legal Assistance](#) ^[11] (1-800-921-1115) or the [NH Commission for Human Rights](#) ^[12]s (603-271-2767).

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Links:

[1] <https://nhlegalaid.org/legal-issues-during-covid-19-crisis>

[2] <https://nhlegalaid.org/self-help-guides/housing-foreclosure/evictions/questionanswer-walk-through-eviction-process>

- [3] <https://nhlegalaid.org/self-help-guides/housing/leases-security-deposits/security-deposits>
- [4] <https://www.gencourt.state.nh.us/rsa/html/iii/48-a/48-a-14.htm>
- [5] <https://www.dhhs.nh.gov/dphs/bchs/clpp/providers.htm>
- [6] <https://www.gencourt.state.nh.us/rsa/html/III/48-A/48-A-14.htm>
- [7] <https://nhlegalaid.org/withhold-rent-or-not-withhold-rent-question>
- [8] <https://easyforms.illinoislegalaid.org/run/LARCAAnswerRentWithholding/AnswerRentWithholding>
- [9] <https://www.gencourt.state.nh.us/rsa/html/nhtoc/nhtoc-lv-540-a.htm>
- [10] <https://nhlegalaid.org/self-help-guides/housing/tenants-rights/filing-petition-under-rsa-540>
- [11] <https://www.nhla.org>
- [12] <https://www.nh.gov/hrc/>
- [13] <https://nhlegalaid.org/self-help-guides/housing/tenants-rights>

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