



Your Rights As A Tenant In Texas

Founded in 1975, Texas RioGrande Legal Aid, Inc. (TRLA) is a non-profit organization that provides free legal services to low-income residents in 68 counties of Southwest Texas, and represents migrant and seasonal farm workers throughout the state of Texas and six southern states. In addition, TRLA operates public defender programs in several Southwest Texas counties. TRLA is the third largest legal services provider in the nation and the largest in the state of Texas. TRLA serves approximately 25,000 clients each year. However, over 2.6 million residents of Southwest Texas are considered eligible for TRLA services.

The forms referenced in this booklet can be found at: www.texastenant.org

For Assistance, please call: 1-888-988-9996

www.trla.org

This brochure was made possible with a grant from the El Paso Bar Foundation.

Every tenant in Texas has rights and obligations that are established by the Texas Property Code, Texas Rules of Civil Procedure, court decisions, and the lease. This booklet is meant to give you an overview of laws that apply to:

- Evictions
- Repair requests
- Utility shut-offs
- Liens
- Lock-outs
- Security deposits
- Housing discrimination and protections for people with disabilities



Evictions

An eviction is a lawsuit filed by a landlord to remove tenants and their belongings from the landlord's property and is also called a "forcible detainer" or "forcible entry and detainer."

You can be evicted for violating your verbal or written lease by, for example:

- Not paying the rent.
- Causing damage to the property.
- Doing things that affect the health and safety of others, like drug activity or violent crime.
- Disturbing other tenants by being too loud.
- Not moving out when your lease is up and is not renewed, which is called "holding over."

If your landlord wants to evict you for something other than the rent, you should continue to pay the rent. If your landlord wants to evict you for not paying the rent, you must continue to pay the rent or you can be evicted for nonpayment. If the landlord refuses your payment, save the rent because you will have to pay it if the court rules in your favor on the other issues.

The Eviction Process

A landlord can only evict you by filing an eviction lawsuit in Justice of the Peace Court (J.P. Court).

The landlord must take the following steps:

The landlord must first give you a written notice to vacate. The notice must be given to you in person or to anyone over 16 years of age in the unit. The landlord may also send the notice by mail or post it on the inside or outside of the front door of the rental property. Texas Prop. Code §24.005(a), (b), (f).

Your landlord cannot punish you for enforcing your right to fair housing

Your landlord cannot retaliate against you for filing a fair housing complaint. Your landlord cannot evict you, refuse to renew your lease, keep you from using the premises, increase your rent, terminate your lease, or interfere with your rights under the lease because you filed a complaint. However, your landlord can file an eviction for valid reasons like not paying rent or violating your lease.

Federal Fair Housing Act of 1968:

42 U.S.C. 3601, et seq;

24 CFR Parts 100, 103, and 104

Texas Fair Housing Act:

Texas Property Code Sec. 301.001, et seq.

Local ordinances:

Check your municipal code

If your landlord does not accept your support animal, we recommend the following:

1. **Think about the connection between your support animal and your disability.** What are the specific ways that the animal reduces your symptoms from morning to night?
2. **Get a letter of support from your medical professional.** In most situations, your medical professional does not have to reveal details about your specific medical conditions. However, the letter should describe how the animal improves your health.
3. **Write a letter to your landlord.** This letter is called a “reasonable accommodation request.” You can include a statement about how the support animal helps you and include letters from your medical providers. If you deliver it in person, get a receipt. If you mail it, send it by certified mail so you have proof that you mailed it.
4. **Your landlord cannot require proof that the assistance animal is registered or trained as a service animal.**
5. **Your landlord can only deny your request if it is unreasonable** because it will cause an undue burden or will require a fundamental change in the landlord’s housing practices.

- The notice must state the date by which you must leave or vacate the unit. The landlord can file suit to evict you if you do not vacate by the deadline given in the notice. The notice period will depend on the lease. If the lease is not specific about the notice period, the landlord must give you at least a 3-day notice to vacate when the landlord claims you have violated the lease.
- If your lease is not renewed, your landlord has to give you 2 notices. The first notice is a termination notice or notice of intent not to renew the lease. If you pay rent monthly, the landlord must give you at least a 30-day notice of termination. Tex. Prop. Code § 91.001. The second will be a notice to vacate. Texas Prop. Code §24.005.
- If you do not move out of the unit after the notice expires, the landlord has to file an eviction lawsuit in J.P. Court in the precinct where the rental home is located. Texas Rule of Civil Procedure 510.3.
- A constable will serve you with an official notice and a copy of the lawsuit. It is important that you accept service of the lawsuit so that you know when you must appear in the J.P. court.
- Get to the **court for the hearing at least 15 minutes early.** If you miss the hearing, the landlord will likely ask for a default judgment against you.
- The judge will give each side a chance to speak. You must be prepared. Take witnesses, and copies of important documents like your lease, proof of payment, or written communications between you and the landlord.

- The judge will likely rule in your favor if the judge finds: 1) you have not violated your lease; or 2) the landlord did not give you proper notice; or 3) you have a legal defense.
- If the judge rules in your favor, you can continue living there.
- If the landlord wins, the judge will sign a judgment giving your landlord the right to possession. If you do not appeal or move out within 5 days, the court can issue a “Writ of Possession” telling the constable or sheriff to remove you and your things. You will be given 24-hour notice by the constable before the writ is executed.
- If the landlord wins, the judge can only give the landlord possession, rent and court costs – no late fees, utility charges, or damages. Texas Rule of Civil Procedure §510.3 (d); (e). If the landlord hires an attorney, the judge can only give the landlord attorney’s fees if your written lease allows them or if your landlord sent you a 10-day notice to vacate by certified mail telling you they may get attorney’s fees in an eviction. Texas Prop. Code §24.006.

Appeals

Either side can appeal the decision of the J.P. Court. The appeal will be sent to a County Court Judge.

If you appeal, you must do so within 5 calendar days after the J.P signs the judgment. In counting the 5 days to appeal, include Saturdays, Sundays, and legal holidays. If you can’t file your appeal because the J.P. is officially closed before 5:00 p.m., your deadline is the court’s next business day. If the fifth day falls on a weekend day or holiday that the court is closed, then the appeal is due the next day the court is open. Texas Rule of Civil Procedure §510.9.

Assistance or Support Animals for People with Disabilities

Federal, state and local fair housing laws protect the rights of people who have physical or mental disabilities and use assistance animals in their homes for tasks (like warning them about an epileptic seizure) and/or emotional support (like providing comfort during a panic attack). These animals can also be called service or emotional support animals.

If you have an assistance animal:

1. **Your landlord cannot consider the assistance animal a “pet.”** If your lease has a general “no pet” rule, it does not apply to assistance animals, which are considered a health aid similar to medication or a wheelchair.
2. **Your landlord cannot charge you a “pet deposit” or monthly “pet fee.”**
3. **Your landlord cannot ban or limit assistance animals by type.** If the animal is a dog, the landlord cannot place limits or ban the animal based on its size, weight or breed.
4. **You are still responsible for:**
 - Picking up after your assistance animal.
 - Paying for damages caused by it.
 - Making sure it is not a nuisance.
 - Providing care and maintenance for it.
 - Dealing with behavioral issues, like aggression or barking. You can find out more from local animal shelters.
 - Following local ordinances, like keeping it on a leash when you are in public spaces.

Reasonable Accommodations for People with a Disability

A landlord must grant you an accommodation that is necessary if it is reasonable, which means it does not cost too much or will not result in a significant change in the housing program. You are entitled to a reasonable accommodation the moment you need it.

You can request a reasonable accommodation orally or in writing. You may first make the request orally and follow up with a written request if the landlord does not act promptly. You should keep a copy of your request for your records. In your written request:

1. List the specific accommodation that you need;
2. Explain why you need this accommodation;
3. Provide your contact information; and
4. Sign and date the request.

A landlord has the right to ask you to give proof that you have a disability and that you need an accommodation. What you will need to show will depend on your disability. The most common form of proof is a letter from a medical professional.

If your landlord refuses to grant your requested accommodation even after you have given proof of your need, you can file an agency complaint with HUD or the Texas Work Force Commission and/or a lawsuit. If your landlord can accommodate you with an alternative and it will work just the same, then you may have to accept that accommodation. If the landlord's alternative will not work, you can:

1. Give your landlord a letter from your medical provider explaining why it will not work;
2. Contact an attorney to help you; or
3. File a complaint or a lawsuit.

- In order to file an appeal, you must pay a cash bond (can be a surety not just cash) or file an Affidavit of Inability to Pay Appeal Bond. A cash bond is money paid to the court and the judge sets the amount. If you cannot afford to pay a cash bond, you may file an Affidavit of Inability to Pay Appeal Bond. This is a signed, notarized statement from you that you are unable to pay the appeal costs.
- **If you file an appeal and are being evicted for non-payment of rent, in order to remain in the unit you must also pay a rental period's rent (usually one month of rent) into the court registry within 5 days of filing the appeal.** The J.P. Court should notify you of this obligation. Texas Rule of Civil Procedure §510.9(c)(5)(B)(i).
- In addition, during the appeal, if you want to stay in the unit, you must pay future rent to the county court registry within 5 days of when your rent is due under the lease each month. If you do not pay the monthly rent when it is due, the court can issue a writ of possession, giving you 24 hours to move out. Texas Rule of Civil Procedure §510.9(c)(5)(B)(ii).
- The appeal process may take around one month or more. You will be given notice by certified mail, so make sure you pick up any certified mail. There will be another trial and a county court judge will make a decision without taking into consideration what happened in the J.P. court. If you win in county court, you can stay. If you lose, you will have to move out or file a supersedeas bond with the county court within 10 days and appeal to an appellate level court. This process is very complicated and you would need to hire an attorney to assist you. You can only prevail if the county court judge made legal errors and not if you just disagree with the decision.

Repairs

You have the right to live in a healthy and safe rental home. If you are current on your rent and you haven't caused the problems that need to be repaired, your landlord is responsible for making the repairs. Violations can include: roaches, sewage leaks, roof leaks, faulty heaters and air conditioners, and others.

Your landlord is required to make repairs if:

1. The maintenance problem affects your health and safety. For example, a water leak, sparking electrical wiring, sewage backups, and roaches/rats clearly qualify, while a broken dishwasher likely does not.
2. You are current on the rent; and
3. The problem was not caused by you, members of your household, or your guests.

In addition, the landlord must make repairs that do not affect your health and safety if the landlord agreed to do so in the lease.

How to ask your landlord to make repairs

The Texas Property Code §92.051- §92.061 explains how you should ask for repairs that affect your health and safety. Here is a summary of the steps you should take.

1. **Keep paying the full amount of rent on time.** It may not seem fair, but even if your rental home is in bad condition, you still must pay the rent.

The agency has 100 days from when you file your complaint to do an investigation. It will notify you if it is unable to complete the investigation in 100 days.

If the agency does not find evidence of discrimination, it will dismiss your complaint. If the agency finds reason to believe discrimination took place, then it will issue a description of the events and actions that might be considered discrimination. This is called the "charge."

If you receive a charge from the agency, you have two options:

- i. Administrative hearing with the agency. If the agency decides that discrimination took place, then the agency can order the landlord to pay your damages, court costs, and attorney fees. It can also force the landlord to stop the discriminatory behavior.
- ii. Attorney General. After receiving a charge from the agency, you can choose to have the attorney general (the lawyer for the state of Texas) file a lawsuit on your behalf. If successful in proving discrimination, the court can award you damages, attorney's fees, court costs, and force your landlord to stop the discriminatory behavior.

Filing a lawsuit. This can be done in state or federal court whether or not you have filed a complaint with the agency. If you are successful in proving discrimination, the court can award damages, attorney's fees, court costs, and order the landlord to stop the illegal discrimination.

Fair Housing Laws Apply to All Landlords Unless Exempted

1. Landlords who own more than three single-family houses at any one time are covered.
2. If a religious organization owns housing, the organization can give preference or only rent to people of the same religion, but cannot discriminate for any other reason.
3. If housing is designated for elderly residents, then the landlord can discriminate because of familial status (having children under 18 living with you) but no other reason. Elderly housing is considered housing that has an age restriction of 62 or older or requires at least one person per unit to be 55 or older.

Enforcing your right to fair housing

If your landlord discriminates against you, which includes denying you a reasonable accommodation of your disability, you may either file an administrative complaint within one year of the discrimination or file a lawsuit within two years, or both.

File an agency complaint with:

- U.S. Dept. of Housing and Urban Development (HUD) at www.hud.gov or call 1-800-669-9777 or,
- Texas Workforce Commission Civil Rights Division at www.twc.state.tx.us/ or 1-888-452-4778.

2. **Write a letter to your landlord that has a date and the list of specific repairs you need.** Telling your landlord that you need the repairs by telephone, in person or by text message is not enough. You have to ask in writing. Make a copy of the letter and send it by certified mail so that you do not have to send a second letter. It is best to also send the letter by regular mail at the same time.
3. **Include a statement in the letter asking the landlord to provide you with a written explanation if the landlord is unable to make the repair within 7 days.**
4. **Your landlord will have 7 days to make the repairs, unless the repair is for an emergency.** Your landlord will have to make the repairs in less than 7 days if they are emergency-type of repairs.
5. **If you send the letter by regular mail, you will have to send a second letter if your landlord does not make the repair** and your landlord will get another 7 days to make the repairs. You may also send an email, but it is probably not sufficient notice by itself.
6. **At any time during these steps, you can call the City code compliance inspectors.** They will contact you to set up a time to inspect the entire rental home, not just the things that you complained about. If they find violations, they will give your landlord a time limit for fixing things. Ask the inspectors for their letters to the landlord.
7. **Take photographs that show the repairs that are needed and keep receipts** for any money you have spent because of the repair problems, like a large water bill because of a water leak.

If your landlord does not make the repairs:

If you have given your landlord proper notice as described above, have allowed maintenance staff to make the repairs, and more than 7 days have passed, you can do the following:

- 1. End your lease.** Write a letter to your landlord stating that you are ending the lease and the date you will leave. You have the right to get a refund of the rent you have paid for days you will no longer be living there and to get your security deposit, minus any damages you have caused. Texas Prop. Code §92.056 (e)(1),(f).
- 2. Make the repair yourself and deduct the rent. Because of the extra steps you must take, do not do this without speaking to an attorney.** You can be responsible for damages you cause while making the repairs. Texas Prop. Code §92.0561.
- 3. File a Petition for Repairs at J.P. Court.** The J.P. can order the landlord to make the repairs. Texas Prop. Code §92.0563 (a)(1).
- 4. Sue your landlord** and request the rent be reduced from the date you gave the repair request, and that the court award you a penalty of one month's rent and \$500, actual damages, attorney's fees and court costs.

Your landlord cannot ask you to take responsibility for repairs that are the landlord's responsibility. If your landlord orally or in writing asks you to waive the right to repairs, you have a claim against your landlord under § 92.0563(b) of the Property Code.

Fair Housing Rights

The federal government and the State of Texas both have Fair Housing Acts which prohibit certain types of discrimination in renting and selling housing.

The laws prohibit discrimination because of:

- Race
- National origin
- Disability:
 - Having a disability or being perceived as having a disability; and/or
 - Denying a person with a disability a reasonable accommodation
- Religion
- Sex
- Familial status:
 - Having children younger than 18 years; or
 - Pregnancy

Discrimination:

The following actions, **if done because of** race, color, national origin, disability, religion, sex, or familial status, are illegal:

- The landlord refuses to rent a property to you.
- The landlord in any way denies or makes housing unavailable to you.
- The landlord gives you different terms, conditions, or privileges than the other tenants.
- The landlord provides you with different services or facilities than the other tenants.
- If you have a disability, your landlord refuses to give you a reasonable accommodation or refuses to allow you to modify the unit at your expense.

Suing in Justice Court (J.P.)

If you sue your landlord, you can file the suit in the J.P. court in the county and precinct where the landlord lives or where the rental property is located. Texas Rule of Civil Procedure 502.4 (b). You must file your suit within four years of the date of the landlord's action.

To sue your landlord:

1. File your petition. The Court should have blank forms. You will have to pay a fee or if you cannot afford it, you may file an Affidavit of Inability to Pay. You will need to provide a street address where your landlord can be served.
2. A constable will serve your landlord with the lawsuit. The landlord's answer is due 14 days after service by the constable.
3. The court should notify you about the date of the trial, but you should check.
4. At the trial, be punctual and be prepared. Each side will get to speak, present evidence and question witnesses.
5. Even if you win, it may be hard to collect money. If the landlord does not file an appeal, ask the court clerk to prepare an Abstract of Judgment 21 days after the judgment is signed. File that with the County Clerk in the deed records in every county where the landlord either owns property or may try to buy property. After 10 years, it will expire and you will have to file a new Abstract before it expires. If the landlord does not appeal within 21 days and hasn't paid you, you can get a writ of execution, ordering the constable to take and sell certain type of property to pay for the judgment. You may have to hire a lawyer to get you a court order called a writ of garnishment, ordering a bank to pay from the landlord's accounts.

Your landlord cannot punish you for asking for repairs

For 6 months after you have made a request for repairs or have called the City Inspectors, **your landlord cannot:**

1. End your lease by sending you a notice to vacate or filing an eviction against you for asking for repairs, unless you violate the lease.
2. Raise your rent.

If your landlord files an eviction against you and you think it is because you asked for repairs:

1. Gather your evidence: photos, letters you sent requesting repairs, witnesses, City inspectors' report, receipts for your expenses and your rent payments, and other proof.
2. Call the city inspectors and ask them to go to your hearing.
3. At the hearing, tell the judge that you believe your landlord is retaliating. Show proof of the date you asked for the repairs and the date when your landlord asked you to move out. Refer the judge to Texas Property Code §92.331- §92.335.

Utility Shut Offs

If you pay the water, gas, or electric service as part of your rent, your landlord can only shut off your utilities for bona fide repairs, construction, or an emergency. Your landlord can never shut off your water or gas service for nonpayment of rent or utilities. If your landlord shuts off your utilities illegally, you can:

1. **Request a writ of restoration** at the J.P. Court. This order will require the landlord to reconnect the services. Texas Prop. Code §92.0091.
2. **End the lease.** Texas Prop. Code §92.008 (f)(1).
3. **Sue your landlord** for actual damages, one month's rent, plus \$1,000, attorney's fees and court costs, minus any delinquent rents or sums you owe the landlord. Texas Prop. Code §92.008 (f)(2).

If your electricity is submetered or allocated and you do not pay the landlord, the landlord may terminate your electric service following proper notice. Section 92.008 of the Property Code provides certain other protections.

If the utility has or is about to be shut off because the landlord has failed to pay the utility company, you can:

1. **Pay the utility company** to reconnect the service and deduct that amount from your rent. You must immediately provide the landlord a copy of the receipt. Texas Prop. Code §92.301(b)(1).
2. **End the lease in writing and move out within 30 days of receiving the first notice of shut off**, if the landlord has not shown you that they paid the bill before the shut-off. Give your notice in writing (preferably by certified mail or in front of a witness), date it, and keep a copy and proof you delivered it. Texas Prop. Code §92.301(b)(1), (d)(1)(2).
3. **Sue the landlord** for actual damages, including but not limited to: moving costs, utility connection fees, lost wages, attorney fees and court costs. Texas Prop. Code §92.301(b)(6)(7).

If your landlord does not return your security deposit:

If you requested the security deposit, gave your landlord your forwarding address and 30 days have passed and your landlord has not refunded your deposit or given you a list of the damages the landlord says you caused, you can sue the landlord in J.P. Court. Texas Prop. Code §92.109.

- When going to court, take copies of all relevant, written communications with the landlord, including the lease, receipt for your deposit, photos or videos of the property, and any witness who can testify about the property's condition.
- The landlord has the burden of proving that keeping any part of the deposit was reasonable.
- If your landlord does not return the deposit or the balance of the deposit and a description and list of damages, you can ask the court to award you \$100, three times the portion of the security deposit wrongfully withheld, and attorney's fees.
- A landlord who does not give you a written description and itemized list of damages and charges within 30 days of the date you move and give the landlord a written notice of your forwarding address is presumed to have acted in bad faith. If the court finds the landlord acted in bad faith, your landlord cannot keep any of your security deposit or sue you for damages to the property and is liable for your attorney's fees in a suit to recover the deposit.

If you **did not pay a security deposit** and you've given your landlord a forwarding address, the landlord has to let you know in writing before they make a claim to credit reporting agencies or send it to a debt collection agency. If the landlord has your forwarding address and does not send you notice, your landlord cannot collect damages and charges from you. Texas Prop. Code §92.110.

4. Give/send the landlord your forwarding address in *writing*. (It does not need to be where you live, only a reliable place to receive mail.) Keep a copy of the notice. **Your landlord has 30 days from the date you move (or the date you provide notice of your new address, whichever is later) to send a refund of your security deposit or accounting/list of charges.** Texas Prop. Code §92.103.

Damages your landlord can claim

The landlord can use the security deposit to charge you for charges legally owed under the lease and substantial or material damage to the property.

Examples: a broken window, a hole in the wall, or a large stain on the carpet. You are responsible for the damage even if a guest caused the damage.

The landlord cannot charge you for normal wear and tear, which is damage caused by using the property as it was intended. Texas Prop. Code §92.103.

Examples: worn carpet, a few small nail holes in the wall or dusty fixtures are examples of normal wear and tear. In addition, the landlord cannot charge you for damage caused by previous tenants.

Always pay your rent. Even if the security deposit is more than your monthly rent, not paying any part of the last month's rent can make you liable to the landlord for three times the amount of rent you have not paid plus attorney fees. Texas Prop. Code §92.108.

Liens (when your landlord takes your property)

Low Income Housing Tax Credit landlords, public housing authorities, and subsidized landlords are not allowed to take your personal property.

Other landlords may take certain personal property ONLY IF:

1. Your written lease says they can take your things if you are behind on the rent and it is written in bold print or it is underlined. Texas Prop. Code §54.043.
2. Your landlord cannot take things like clothes, tools for your job, books, photos, one couch, two living room chairs, dining table and chairs, kitchen items, food, medicine, one car and one truck, beds/bedding, and toys.
3. If your landlord does take any property, the landlord must leave a notice of the things taken, who you can contact to get them back and the amount you must pay to get your things back.

If your landlord takes your things in violation of the law, you can sue the landlord and ask for actual damages, the return of any property that has not been sold, return of the proceeds of any sale of property they took,, minus any amount you owe, and attorney's fees. If your lease is from before January 1, 2016, you can also ask for \$500 or one month's rent, whichever is greater. If your lease is entered into after January 1, 2016, you can also ask for \$1,000 and one month's rent. Texas Prop. Code §54.046.

Lock-outs (changing the locks)

Low Income Housing Tax Credit landlords, public housing authorities, and subsidized landlords are not allowed to lock you out.

Other landlords can only change the locks if:

1. You have not paid your rent;
2. Your written lease states that your landlord can lock you out;
3. Your landlord has given you a written notice by hand-delivery or by posting it on the inside of your door, at least 3 days or, if locally mailed, at least 5 days, before changing your locks. This written notice must state:
 - the earliest day the lockout may happen;
 - the amount of rent you must pay to prevent the lockout;
 - the name/address of the person you can contact about the lock out and rent; and
 - your right to receive a key to the new lock at any hour, even if you don't pay the rent you owe. Texas Prop. Code §92.0081(c).

If you get locked out:

1. **Contact the landlord and demand a key.**
2. **Request a writ of reentry at the J.P. Court if your landlord does not give you a new key.** Texas Prop. Code §92.009.
3. **Sue the landlord** and ask actual damages, a civil penalty of one month's rent plus \$1000, attorney's fees, and court costs minus any amounts you owe. Texas Prop. Code §92.0081(h)(2).

Security deposit

Before move-in:

1. Read the lease carefully for charges that you may be charged for, like a re-painting fee. You can negotiate these before signing.
2. Do a walk-through *inspection* of the property with the landlord.
3. Take *photos* of existing damage or needed repairs.
4. Make a *written* list of existing damage, have the landlord sign it if possible.

Before moving out:

Check your lease several months in advance of the end of the lease term for how much notice you must give the landlord if you intend to move when the lease ends. Most landlords require at least 30 days' notice, but some require 60 days' advance notice. Keep a copy of the notice.

- If you didn't give 30 days' notice, check your lease. Some leases include a requirement of written notice of move-out for refund of the security deposit, but this must be underlined or in **bold print**.

When you move out:

1. Do a final walk-through inspection with the landlord. Ask the landlord for a written, signed list of damage to the property, and keep a copy. If the landlord won't do a walk-through, inspect the unit with a friend.
2. Take photos or videos of the property and its condition. Have witnesses present if possible.
3. Return all your keys to the landlord and get a receipt for the keys.