



*Breaking Barriers to Justice*

## **SUBSIDIZED HOUSING and LANDLORD – TENANT LAW**

### **FREQUENTLY ASKED QUESTIONS**

**NOTE:** The Frequently Asked Questions below were written to help answer questions we have heard because of the COVID-19 emergency. It is important to have reliable information when dealing with a public health emergency. However, the situation is changing rapidly and the information below may not be up-to-date. Under normal circumstances, many of the answers may be different. The information that follows is based on Illinois and US laws, regulations, and emergency orders. This information is intended only to be an overview of your rights. Since every case is different, you should not rely on this information as a substitute for an attorney.

#### **Do I have to pay my rent?**

Yes, you must continue to pay your rent, unless you make special arrangements with your landlord. If your landlord agrees that you do not have to pay your full rent or that you can pay your rent late, you should get that agreement in writing or at least confirm your landlord's agreement by sending your landlord a letter or email or text stating the agreement.

Avoid paying rent by cash, but if you have to then be sure to send your landlord a letter or email or text confirming the date and amount of your payment. Ask for a receipt from your landlord and keep proof of any payments. For example, take a picture of your money order before giving it to your landlord AND hold onto the receipt.

#### **What if I am unable to pay my rent because I lost my job or can't work right now?**

If you lost your job, you should apply for unemployment benefits. To apply, go to <https://www2.illinois.gov/ides/Pages/default.aspx>.

If you do not pay your rent, your landlord can end or "terminate" your lease or "tenancy," so you should try to pay your rent or apply for financial assistance from a local agency or church, if possible. If your landlord has a federally backed mortgage or participates in a federal housing program, your landlord cannot try to evict for nonpayment until July 25, 2020.

If you don't pay your rent, before your landlord can terminate your lease, your landlord must first give you a demand for rent, unless your lease waives the right to notice. A demand for rent is a written notice that must give you at least 5 days to pay the rent you owe. If you pay the rent within the 5 days, the landlord cannot end your tenancy. If you do not pay the full amount of rent you owe within the 5 days, your landlord can treat your tenancy as ended.

Even if your lease is terminated, your landlord cannot change your locks, shut off your utilities, or use other self-help to try to force you out. Your landlord must take you to court.

### **I live in public/subsidized housing. Can I be evicted right now?**

No. Under the federal CARES Act, evictions and late fees are paused until July 25, 2020. After July 25<sup>th</sup>, the housing authority will have to give a 30-day notice before they can try to evict.

Subsidized housing includes public housing, “Section 8”, project-based housing, HUD subsidized senior housing, USDA subsidized housing, and tax credit housing.

The federal eviction “moratorium” only applies to evictions for non-payment of rent and late charges. Your landlord could still file an eviction now for other lease violations such as criminal activity. The federal eviction “moratorium” DOES NOT apply to evictions filed before March 27, 2020. But right now, the courts are not holding hearings in eviction cases and the Governor has ordered that no evictions take place until after July 26, 2020.

If you lost your job or other income, ask the housing authority for an “interim recertification” right away. You should make your request in writing by email, if possible, and by regular mail. Because of the Governor’s Stay at Home Order, you should not travel to the Housing Authority office for this request.

### **What if I don’t have a written lease?**

If you pay rent to your landlord, you have a tenancy (a lawful right to possession of your residence) even if you don’t have a written lease. That means the landlord still must give you a 5-day notice for the rent owed before your tenancy can be terminated.

### **Can my lease be terminated for other reasons?**

Yes. You should try to follow all other terms of your lease, unless prohibited by an emergency court or government order. If you fail to follow your lease, your landlord can terminate your lease by giving you a written notice. In this case, your landlord must give you at least 10 days’ notice that your lease is terminated.

Even if your lease is terminated, your landlord cannot change your locks, shut off your utilities, or use other self-help to try to force you out.

### **What happens if my lease/tenancy is terminated?**

If you do not voluntarily move out after getting a written notice of termination, your landlord can try to evict you by filing an eviction case in court.

### **I heard that I can’t be evicted right now. Is that true?**

Governor Pritzker has told law enforcement to stop enforcing orders of eviction until at least July 26, 2020 and has ordered everyone to stay in their homes. Even if your landlord already has an eviction order, only law enforcement can enforce it and only after the Governor’s Order has ended.

The Governor and Illinois courts have put most eviction court cases temporarily on hold, such as cases because of nonpayment of rent. You still owe rent, but you cannot be evicted right now for owing rent. But your landlord can still file an eviction court case if you pose a direct threat to

the health and safety of other tenants, an immediate and severe risk to property, or a violation of any applicable building code, health ordinance, or similar regulation.

If you already have an eviction case that was filed in court, you should check with your local circuit clerk's office to see if your hearing is scheduled. You can call or check their website. To find out when your next court date will be, you can check the court's website on [www.judici.com](http://www.judici.com). If your court is not on [www.judici.com](http://www.judici.com), then they likely have their own website for court records which you can find by going to their website. Otherwise, you will need to call the Circuit Court Clerk's office.

If you already went to court and an eviction order was entered against you, it can't be enforced right now because of the Governor's Order.

Even if you can't be evicted immediately, you could be evicted in the future. So, it is important to continue to follow the terms of your lease, like paying your rent. You can also try to work it out with your landlord by remedying the problems that caused the dispute.

### **Can my landlord change my locks?**

No. It is illegal for your landlord to change the locks or otherwise try to evict you without a valid court order. Only the sheriff can enforce an eviction order. If your landlord locks you out or tries to do so, you should call the police. If any of these things happen, you should contact your landlord and demand that your landlord give you the new keys or you will call the police. If the landlord does not do so, then call the police immediately. You can also call Land of Lincoln's Legal Advice and Referral Center at 1-877-342-7891 and seek the help of a lawyer.

### **Can my landlord shut off my utilities?**

No. It is illegal for your landlord to shut off your utilities to try to force you out of your home. If your landlord shuts off any of your utilities, you should call the police. You can also call Land of Lincoln's Legal Advice and Referral Center at 1-877-342-7891 and seek the help of a lawyer.

Some tenants have luck resolving this problem by getting a utility account in their own name if the account was in the landlord's name. But you might have to pay any past due amounts and a deposit.

### **Can my utility company disconnect my utilities because I can't pay the bill?**

Regulated utilities, such as Ameren, have been ordered to stop disconnecting utilities for nonpayment until **July 27, 2020**. Non-regulated utilities such as electrical co-operatives and water service supplied by towns and cities have been asked to voluntarily follow the moratorium. For more information, check the Illinois Commerce Commission website at <https://www.icc.illinois.gov/home/covid-19>.

### **Does my landlord have to make repairs?**

Your landlord still has a duty to ensure your home is safe and habitable. You should ask the landlord to make the repairs and put your request in writing. If your landlord refuses to make repairs, try to call your city building or code enforcement department to see if it can do an inspection and assist you with getting the repairs done. However, some departments may be limiting what types of inspections they will do at this time. The Governor's Order allows the

landlord to hire or send workers to your home to make necessary repairs.

A landlord's failure to make repairs does not give you a right to withhold your rent, except in very limited circumstances. Therefore, do not withhold your rent. You should talk with a lawyer about what steps you must take before you can legally withhold rent and not end up getting a 5-day eviction notice. Despite the above warning, if you do withhold your rent as a protest you should be sure to save the money because judges usually do not believe this claim if you do not have the money when your case comes to court.

**Are there other legal resources available besides Land of Lincoln?**

The Public Interest Law Initiative PILI has set up the COVID-19 Illinois Free Legal Answers Task Force. [Illinois Free Legal Answers](http://il.freelegalanswers.org) is a secure website (il.freelegalanswers.org) where low-income Illinoisans can ask a lawyer a question about a civil legal issue.

You can also call or email the Illinois Lawyer Finder Service. The telephone number is 800-922-8757 and the website is [www.isba.org/public/illinoislawyerfinder](http://www.isba.org/public/illinoislawyerfinder).

Illinois Legal Aid Online also has a lot of legal information at [www.illinoislegalaid.org](http://www.illinoislegalaid.org).

**Land of Lincoln Legal Aid  
Legal Advice & Referral Center  
Phone: (618) 394-7300  
1 (877) 342-7891**

Rev. 06/29/2020