A damage deposit is the most common requirement of landlords. At the time of the pre-rental walk-through with the landlord, the perspective tenant should make a note of damaged items or areas, worn rugs, broken fixtures, etc. and give a copy to the landlord. This may help to eliminate or minimize disputes later.

When a tenant moves out, the landlord must either return the deposit within 15 days of termination of the rental agreement, if the landlord does not intend to impose a claim upon the security deposit. If the landlord intends to impose a claim on the security deposit then the landlord must justify, in writing and by certified mail, to the tenant’s last known mailing address within 30 days of the termination of the rental agreement. The letter must document why they are keeping a portion or all of the deposit. If the notice is not sent as required within the 30-day period, the landlord forfeits his/her right to impose a claim upon the deposit, unless the tenant fails to give proper notice prior to vacating.

If the tenant does not object to the imposition of the landlord’s claim or the amount of the claim, within 15 days after receipt of the landlord’s notice of intention to impose a claim, the landlord may then deduct the amount of the claim and then remit the balance of the deposit to the tenant within 30 days after the notice of intention to impose a claim of damages. If the tenant objects to the landlord’s claim, he/she may file a complaint with the Department of Agriculture and Consumer Services or institute an action in a court of competent jurisdiction to adjudicate the landlord’s right to the security deposit.

RESPONSIBILITIES OF EACH PARTY

The landlord and the tenant share many responsibilities, maintenance being one of them. The landlord must provide a healthy, properly maintained place for the tenant to live. The tenant is required to keep the premises in good condition and occupy them as a peaceful neighbor. There are certain responsibilities that apply to each party as outlined in law.

The landlord’s responsibilities will depend on the type of rental unit. The landlord of the dwelling unit at all times during the tenancy shall:

- Comply with the requirements of applicable building, housing, and health codes;
- Where there are no applicable building, housing, or health codes; maintain the roof, windows, screens, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads;
- Keep the plumbing in reasonably good working condition.
- Functioning facilities for heat during winter, and other utilities, water, fuel, or garbage removal, although he/she may choose to. Other provisions relevant to a rental agreement may also be altered in writing.

The tenant is absent from the premises for a period of time equal to one-half the time for periodic rental payments. If the rent is current and the tenant notifies the landlord of the intended absence, then the landlord may only enter with the tenant’s consent or the protection or preservation of the premises.

IF THE LANDLORD DOES NOT COMPLY

If the landlord fails to do what the law or rental agreement requires. The tenant may however, announce his/her intentions in writing by mail, preferably certified, at least 7 days before the rent is due. Make a note of damaged items or areas, worn rugs, broken fixtures, etc. and give a copy to the landlord. This may help to eliminate or minimize disputes later.

When a tenant moves out, the landlord must either return the deposit within 15 days of termination of the rental agreement, if the landlord does not intend to impose a claim upon the security deposit. If the landlord intends to impose a claim on the security deposit then the landlord must justify, in writing and by certified mail, to the tenant’s last known mailing address within 30 days of the termination of the rental agreement. The letter must document why they are keeping a portion or all of the deposit. If the notice is not sent as required within the 30-day period, the landlord forfeits his/her right to impose a claim upon the deposit, unless the tenant fails to give proper notice prior to vacating.

A tenant who puts down a deposit but then decides not to occupy the unit may not be entitled to a refund. If the deposit is non-refundable it should be stated in the rental agreement.

ACCESS TO THE PREMISES

Once a tenant agrees to rent a dwelling unit, the tenant’s right to possession is much the same as if the unit was owned. The landlord, however, can enter at reasonable times with proper notice to inspect, make necessary or agreed upon repairs, decorations, alterations or improvements, supply agreed-upon services or show it to prospective or actual purchaser, tenant, mortgagee, worker or contractor.

The landlord may also enter at any time when:

- The tenant has given consent;
- In an emergency;
- The tenant unreasonably withholds consent; and/or
- The tenant is absent from the premises for a period of time equal to one-half the time for periodic rental payments. If the rent is current and the tenant notifies the landlord of the intended absence, then the landlord may only enter with the tenant’s consent or the protection or preservation of the premises.

The landlord’s responsibilities will depend on the type of rental unit. The landlord of the dwelling unit at all times during the tenancy shall:

- Comply with all obligations imposed upon tenants by applicable provisions of building, housing, and health codes;
- Keep that part of the premises which he or she occupies and use clean and sanitary.
due to allow time to remedy the problem. If the problem is not corrected within 7 days and the rent is withheld, the landlord may institute a court action to collect the rent. Under these circumstances, the tenant must pay the rent into the court registry, pending the judge’s determination in the case.

**IF THE TENANT DOES NOT COMPLY**

**SECTION 83.56(2), F.S.**
The tenant can be evicted for not living up to the agreement. The process of removal depends on the breach.

**FAILURE TO MEET OBLIGATIONS**

Except for the failure to pay rent, a landlord must notify the tenant in writing of any shortcomings and give the tenant 7 days to correct the situation. If the tenant still has not complied after 7 days, the landlord can begin the eviction process based on the non-compliance.

**OTHER EVICTIONS**

**SECTION 83.56(2)(a), F.S.**

Under certain circumstances, if the tenant has exhibited a lack of consideration for the rights and privacy of others, the landlord has the right to require the tenant to move with very little notice.

In some cases (destruction, damage, misuse of property, unreasonable disturbances), the landlord does not have to give the tenant an opportunity to remedy the problem and may terminate tenancy by giving a 7-day written notice.

Each eviction case is unique, be sure to obtain legal advice. A landlord may not evict a tenant solely in retaliation for the tenant complaining to a governmental agency about code violations or asserting other tenant rights.

**NON-PAYMENT OF RENT**

**SECTION 83.56(3), F.S.**

The landlord must serve the tenant a written notice allowing 3 days (excluding weekends and holidays) for the payment of the rent or to move out of the premises. If the tenant does not pay the rent or move out, the landlord may begin legal action to evict.

In order for the landlord to gain payment of rent or possession of the dwelling, he/she must file suit in county court. If the court agrees with the landlord, the tenant will be notified in writing. Then the tenant has 5 days (excluding weekends and holidays) to respond – also in writing – to the court. If the tenant does not respond or a judgment is entered against the tenant, the clerk of the county court will issue a “Writ of Possession” for the Sheriff to enforce. The Sheriff will notify the tenant that eviction will take place in 24 hours. (In accordance with Florida Rules of Civil Procedure 1.090, the date of service is not counted; a full 24 hours is given; the writ is able to be enforced the following day.)

**SECTION 83.57, F.S.**

Termination of tenancy without a specific term – days of written notice required (prior to termination):

- Weekly – 7 days
- Monthly – 15 days
- Quarterly – 30 days
- Yearly – 60 days

**SECTION 83.67, F.S.**

Florida law does not allow a landlord to force a tenant out by:

- Shutting off the utilities or interrupting service, even if that service is under the control of or the landlord makes payment;
- Changing the locks or using a device that denies the tenant access;
- Removing the outside doors, locks, roof, walls, or windows (except for the purposes of maintenance, repair, or replacement); and/or
- Removing the tenant’s personal property from the dwelling unless action is taken after surrender, abandonment, recovery of possession of the dwelling unit due to death of the last remaining tenant in accordance with section 83.59(3)(d), or lawful eviction.

If any of these occur, the tenant may sue for actual and consequential damages or 3 months’ rent, whichever is greater, plus court costs and attorney’s fees.

**SERVICE OF THE EVICTION SUMMONS AND COMPLAINT**

The landlord must provide the summons and complaint to the Polk County Sheriff’s Office, Court Process Section. There is a $90.00 non-refundable fee to serve and enforce a Writ of Possession. The Sheriff will post the Writ of Possession. Following the 24 hour period. (In accordance with Florida Rules of Civil Procedure 1.090, the date of service is not counted; a full 24 hours is given; the writ is able to be enforced the following day) the Sheriff will enforce the writ and turn possession of the property over to the landlord or his/her agent. At this point the writ is enforced. If the landlord or agent requests that the Sheriff remain at the property, then a stand-by fee of $25 per hour, per deputy sheriff will be charged.

Neither the Sheriff nor the landlord can be held liable for the loss or damage to property that is removed. The tenant may be arrested for trespassing if he/she enters the property and/or residence after the final eviction and the Writ of Possession is enforced.

**LOCAL CONTACTS**

**Polk County Courthouse**
255 N. Broadway Avenue, Bartow, FL 33830
863-534-4000

**Polk County Sheriff’s Office**
1891 Jim Keene Blvd., Winter Haven, FL 33880
863-298-6200

**Florida Dept. of Agriculture**
800-HELP-FLA (435-7352) or 850-488-2221
En Español - 800-FL-AYUDA (352-9832)