



City of
Evanston[™]



Metropolitan
Tenants
Organization



Lawyers' Committee
for Better Housing

Tenants Rights during COVID-19

During these unprecedented times, we will be reviewing the current tenant protections as well as recent legislation, orders and other moratoriums implemented to help alleviate the situation.

Tenants Rights During COVID-19

Overview

- ❑ Stay at Home Orders
- ❑ Evanston Residential Landlord Tenant Ordinance (RLTO) during COVID-19
- ❑ Heat and Essential services (gas, light, heat, water)
- ❑ Evictions during COVID-19
- ❑ Q and A

Governor Pritzker has issued a
STAY AT HOME ORDER (in effect through April 30th)

- ❑ This executive order **does not** apply to essential services (including physician visits, vet visits, grocery stores, gas stations, pharmacies, and public transit.)
- ❑ This executive order **does not** prohibit you from moving to a new house or apartment.
- ❑ This executive order **does** prohibit your landlord or property manager from showing your unit. No occupied units can be shown.

Communicating with Landlord



❑ During this time, it is important to keep all communications with the landlord in writing (email, letter and text). Document all repair and maintenance requests.

❑ Avoid cash payments without receipts!

We can give you a letter template!

❑ If you are negotiating a reduced rent or rent deferment because of the virus, get ~~that~~ agreement in writing with a letter or an email.

❑ If the landlord isn't willing to reduce or defer rent payments, ask if they have looked into their right to mortgage forbearance - they might not know that under the CARES Act they likely can delay paying their mortgage without penalty for up to 360 days

❑ You can also take advantage of the expanded unemployment and relief benefits, and you may be temporarily protected from eviction by a state, county, or federal moratorium.

For more info: www.tenants-rights.org

Evanston Residential Landlord-Tenant Ordinance (RLTO)

What is the Evanston RLTO?

- A comprehensive ordinance governing the rights and responsibilities of tenants and landlords
- It covers the right to repair, protections against retaliation, and more!
- The **Evanston RLTO** and **Evanston Building Code** still apply during COVID-19!!

Rental Agreements

Written leases (typically 1 yr.)

- ❑ Both parties bound for period of lease. No rule changes, no rent increases.

Landlord's must:

- ❑ Supply name, address and 24-hour phone number of person authorized to manage property.
- ❑ Supply owner's (or owner's agent) address for purpose of receiving notices and demands.
- ❑ Supply list of any building code violations for dwelling unit and common areas.



Oral

- ❑ AKA “month to month” agreement
- ❑ Tenant and landlord must give 30-day notice to terminate tenancy.
- ❑ The landlord can change rental conditions (rules, rent etc) by giving the tenant a written 30-day notice.
- ❑ 30-day notice must coincide with rental period i.e. tenant must have *at least* 30 days notice.
- ❑ Especially during COVID-19, we encourage tenants to get written rental agreements!

Maintaining Your Apartment



Landlords are all Responsible for:

- Maintaining the building by the standards set forth in Evanston's Building Code → www.cityofevanston.org/government/city-code
- Normal wear and tear (worn out floors, metal gets rusted)
- Maintaining commons areas
- Repairs or upgrades promised in the lease (must be written in the lease!)

What if the landlord fails to make repairs?



Repair and Deduct Letter

1. Write letter and keep copy (send to landlord/manager via certified mail)
2. Wait 14 days after receipt by landlord.
3. Hire professional repair person or purchase components & repair.
4. Pay remainder of rent after deducting costs and give landlord copy of receipts; keep the original. **The deduction may not exceed the greater of \$200 or half the monthly rent.**
5. Keep copy of all receipts.

What if the landlord fails to make repairs?

Rent Reduction

1. Call Evanston 311 to request inspection. Once the problem is cited as a code violation, you must: Write letter to landlord and keep a copy
2. Wait 14 days after receipt of delivery
3. Pay rent, withholding an amount that reasonably reflects the reduced value of the unit” due to the problem.



***if too much money is taken off the rent it could result in an eviction if the judge determines that the amount withheld was not reasonable**

What if the landlord fails to make repairs?

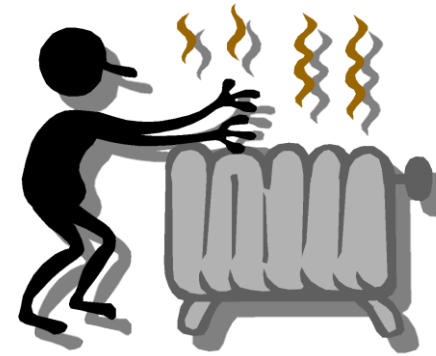


Terminate Tenancy

1. Write letter and keep copy.
2. Wait **30** days after receipt of notice.
3. Send follow up letter confirming lease termination & move out date.
4. Landlord still must return security deposit.

Heat and Essential Services

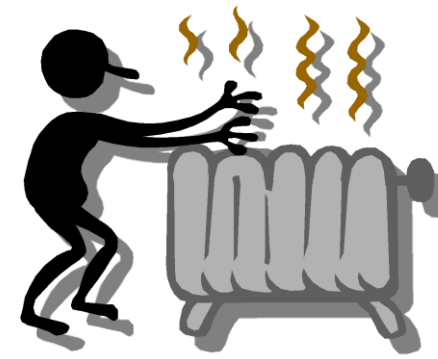
(Gas, electricity, heat, hot/running water)



- ❑ All landlords must follow the Evanston Building Code requirements to provide heat from **September 15-June 1**. **Minimum Temperatures are:**
 - 8:30 AM-10:30 PM* ❑ *68 Degrees*
 - 10:30 PM--8:30 AM* ❑ *66 Degrees*
- ❑ For any immediate danger, contact the Evanston Health and Human Services Department, 311 or 847-448-4311 during business hours of 8am to 5pm Monday through Friday.
- ❑ For heat emergencies after hours (including weekends) call the Police non-emergency number at 847-866-5000 and ask for the Property Maintenance Inspector on call to be paged.

Heat and Essential Services

(Gas, heat, hot/running water)



- ❑ **The Illinois Commerce Commission** has ordered a moratorium on utility disconnections and the assessment of late fees through May 1, 2020, or until the Governor announces an end to the COVID-19 emergency.
- ❑ **Com Ed** (www.comed.com) 800-334-7661 will not disconnect services or impose late fees through May 1.
- ❑ **Nicor Gas** (www.nicorgas.com) 888-642-6748, no disconnections for non-payment through the end of April. Customers can also call to extend due dates.

Tenant Remedies for Heat and Essential Services Problem

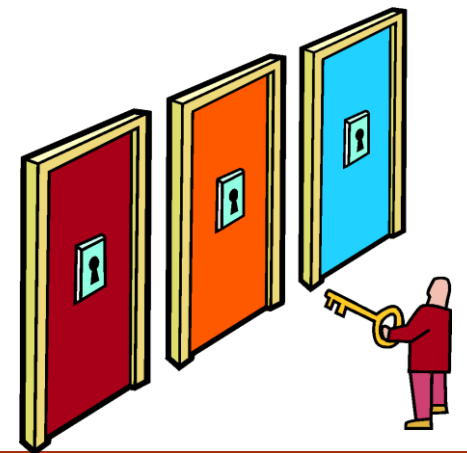
Call 311 and request an inspection. Then send written notice to landlord.

If landlord has not restored service within **7 days**, tenants can:

- Terminate the lease.
- Pay the cost of the utilities, then deduct it from the rental payment(s).
- Procure substitute housing (landlord must pay) until problem is resolved.

Tenant's Right to Privacy

- ❑ Landlords must provide tenants with 2 days notice if they want to enter the unit (except emergencies)
- ❑ Entry must be between the hours of 8 a.m. to 8 p.m. (unless otherwise agreed)
- ❑ Tenants can ask to be present and refuse with good cause.
- ❑ Landlords are allowed to have keys.
- ❑ Due to the virus and the governor's stay at home order, landlords should NOT visit tenants at this time unless essential repairs are needed.
- ❑ It is not yet clear how the COVID-19 emergency impacts a landlord's right of entry. If you believe that the landlord's entry is not necessary and endangers your health, notify the landlord in writing about why you believe the entry is unreasonable and contact MTO and/or LCBH for further assistance.



Safe Homes Act and the Violence Against Women Act (VAWA)

The Governor's stay at home order **DOES NOT** prohibit victims of domestic violence from leaving their homes to stay at a safe, alternate location.

The **Safe Homes Act** applies to ALL private market renters, including those with Section 8 vouchers.

- The Safe Homes Act allows victims of abuse to end the lease early and move.
- Tenants who properly use the law will not be responsible for rent after they leave.
- Must show "credible imminent threat" + notify landlord at least 3 days before or after you move out.
- If you are a victim of *sexual* violence, you do not need to show evidence of a credible imminent threat before terminating your lease. Simply supply notice 3 days before or after you move out, along with evidence (i.e. police report, medical or court records, or a statement from a victim services organization)

The **Violence Against Women Act (VAWA)** applies to public housing residents.

- Protects victims of domestic or sexual violence, stalking, and dating violence (as well as immediate family or household members).
- Actual or threatened domestic or sexual violence, stalking, and dating violence does not give landlord's the right to evict someone if the victim is a tenant or immediate family member of the tenant.
- Landlords can not use an applicant's history as a victim under VAWA as a reason to refuse to rent to them.

Overview of Eviction Court Process



- **Termination Notice** - The landlord must first give you a written notice terminating your tenancy. The notice may provide 5, 10, 30, or 90 days depending on reason for the notice.
- **Eviction Complaint (filing)** - After the written notice has expired, the landlord can file documents with the court to begin an eviction case.
- **Service of Summons** - a copy of the eviction complaint and a “summons” telling the tenant when and where the case will be heard must be delivered to the tenant by the sheriff or by a court appointed process server. If the tenant cannot be found, summons may also be served by “posting”.
- **Court Proceeding** - on the date provided in the summons, or on a later date set by the court, the judge or jury will consider the landlord’s evidence justifying eviction as well as any defenses the tenant may have.
- **Eviction Order** - if the judge or jury determines that the tenant should be evicted, an eviction order will be issued stating that the landlord is entitled to possession
- **Enforcement by Sheriff** - **ONLY** the Cook County Sheriff may enforce the eviction order and actually remove tenants from the property. Landlord cannot lock tenants out.

COVID 19 Changes to Eviction Process



Service of Notices

- At this time, there is no City or State bar to service of rent demands and other termination notices. However, in buildings with **federally backed mortgages**, the CARES Act passed by the U.S. Congress and signed into law on March 27, 2020 prohibits issuance of termination notices for 120 days, and requires that tenants be given at least 30 days' notice.

Eviction Filings

- At this time, there is no City or State bar to filing new eviction cases. In buildings with federally backed mortgages, the CARES Act imposes a 120 day moratorium on filing eviction cases against tenants for nonpayment of rent.

Current Eviction Proceedings

- The Circuit Court of Cook County has issued a General Administrative Order that postpones all ongoing eviction cases unless there is an emergency requiring the case to be heard.
- Absent an emergency, no eviction cases will proceed until **May 18, 2020** at the earliest.

Eviction Orders

- Under the Court's General Administrative order, no eviction orders in Cook County may be enforced until **May 18, 2020**.
- The Governor's Executive Order in Response to COVID-19 also independently prohibits enforcement of eviction orders through **April 30, 2020**. If a new executive order is issued, that moratorium may be extended.

COVID 19 Changes to Eviction Process



What does this mean for me?

- **You are not excused from paying rent**
 - Even though eviction cases are not currently moving forward and eviction orders are not being enforced, there is no law or policy in place requiring landlords to forgive unpaid rent.
 - Unless your landlord has a federally backed mortgage, they can still give you a 5-day notice and file an eviction case against you if you do not pay the rent or otherwise work out a payment arrangement.
- **If you cannot pay rent, you should try to reach an agreement with your landlord.**
 - Ask if they have a mortgage for the property. If they do, there is a good chance it is federally backed, which means that 1) the landlord can request to delay mortgage payments under the CARES Act in order to give you more time to pay rent, and 2) the landlord may not be permitted to give you a termination notice or file an eviction case against you until after **July 25, 2020**.
 - If you live in a building with 5 or more units, you may be able to determine whether you are protected under the CARES Act by entering your zip code and searching for your address on the table provided by the National Low Income Housing Coalition at <https://nlihc.org/federal-moratoriums>. We are still working to determine the best way for a tenant in a 1-4 unit building to discover whether their landlord has a federally backed mortgage.
- **If you cannot reach an agreement with your landlord and do not know whether you are entitled to protection under the CARES Act, you may be at risk of eviction.** However, the moratoriums in place will likely delay the eviction process substantially, and the response to this crisis at all levels of government continues to evolve. The current moratoriums may be extended and/or expanded to give tenants adequate relief. Contact MTO or LCBH for up to date information about your rights and options.
- **If you already have an eviction case pending in court,** you should look the case up online or call the clerk of court to find out when your next court date is. Keep in mind that the court closure may be extended by further administrative orders if the crisis continues.
- **If you already have an eviction order entered against you,** the Sheriff will not enforce the order until after May 18, 2020.

LOOK UP YOUR CASE



If you think your landlord may have filed a case against you:

- Most Counties in Illinois provide online dockets
- Cook County is at: <http://www.cookcountyclerkofcourt.org/NewWebsite>
 - Top bar: select “Court Case Lookup”
 - Press “start search” button under heading for Civil, Law, Chancery, and Domestic Relations/Child Support Search

Then: Select “Civil Division” from drop down

- Select “Search By Name”
- In blank box enter your last name then space then first
- Select “Defendant”
- Select “Start New Search”

If a case has been filed against you it will show up then click on that case number to see what has happened in the case

Statement About Rent Strike/ Rent Freeze/Mortgage Freeze



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- At this time, there is no rent forgiveness by any federal, Illinois State, Cook County or Evanston law.
- Multiple organizing efforts are underway calling for rent forgiveness for tenants impacted by the COVID-19 emergency, and mortgage forgiveness for owners. Until those policies are adopted, however, it is important to understand that the current halt on eviction orders and enforcement of evictions does not halt the accrual of rent claims. As of now, claims for unpaid rent can still be filed, and can be pursued once the courts open up again.
- Because of the Illinois Rent Control Preemption Act, the City of Evanston may be prohibited from enacting an ordinance freezing rent and mortgage payments. It may be necessary for the state legislature to repeal or suspend the operation of that statute before the City can take these important measures to protect Evanston renters.

Important Links



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- The Circuit Court's General Administrative Order:
<http://www.cookcountycourt.org/Portals/0/Chief%20Judge/General%20Administrative%20Orders/GAO%202020-01.pdf?ver=2020-03-16-163631-480>

<https://lcbh.org/news/what-court-s-general-administrative-order-2020-01-means-tenants>
- The Governor's Executive Order in Response to COVID-19:
<https://www.documentcloud.org/documents/6816325-EO-2020-10.html>
- The CARES Act: <https://assets.documentcloud.org/documents/6819239/FINAL-FINAL-CARES-ACT.pdf>
 - The sections of the CARES Act addressing mortgage forbearance and the eviction moratorium are 4022-4024 (pages 567-578).
Federal mortgage loan lookup
<https://nlihc.org/federal-moratoriums>
<https://ww3.freddiemac.com/loanlookup/>
<https://www.knowyouroptions.com/loanlookup>

LOCKOUTS



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Advocating for Chicago Tenants

What is a Lockout?

- Changing Locks
- Plugging Locks
- Removing Doors
- Removing Windows
- Shutting Off Utilities
- Removing Property
- Making Apartment Uninhabitable

LOCKOUTS



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Step 1: Call Police: Must be present at the Premises

Step 2: If landlord refuses police request to provide access, ask officer to arrest landlord for failing to end lockout. If landlord is unavailable, ask officer to call landlord, and ask for a Police Report.

Step 3: If officer is not helpful (1) Ask for Beat Sergeant or Watch Commander, (2) Remind police that, under Section 5-3-12-3(A) of the Evanston RLTO, every on duty officer is authorized to arrest and fine any person found to have committed an illegal lockout

Step 4: Swear Out Arrest Warrant (at police precinct office)

Step 4: Refer to Attorney (Tenant may be able to sue LL to require access and/or for money damages)

Utility Shut-Off and Harassment



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- Intentional Utility Shut-off by a landlord is a LOCKOUT
- Tenants can contact local police department
- Other forms of Harassment such as improper entry or repeated/unnecessary entry

Renter Remedies



- Right to file an Emergency Petition with Court:
 - Not ideal at this time, requires appearance in court. Reduced court staff may slow process
- Contact Police Department and reference Section 5-3-12-3(A) of the RLTO
- Contact LCBH or other Legal Aid for help with notifying landlord about unlawful actions and demanding access and/or restoration of services.

Retaliation



- If you live in an RLTO building, it is unlawful for your landlord to retaliate against you because you complained about bad conditions or unlawful landlord practices to the landlord, to the City, or to any relevant governmental agency, or because you organized or participated in a tenant's union.
- It is also unlawful to retaliate against a tenant because they exercised a right or legal remedy under any applicable law.
- Prohibited retaliatory conduct includes:
 - Increasing your rent
 - Decreasing services
 - Threatening to evict you
 - Actually filing an eviction case against you
 - Refuse to renew your lease
- If you believe your landlord is retaliating against you because you complained or attempted to exercise your rights, you should contact MTO, LCBH, or another local legal aid organization for assistance.

Contact us!

☐ Leave a message on MTO's Tenants Rights Hotline: 773-292-4988

☐ Send us an email: www.tenants-rights.org/contact-us

Twitter: @TenantsRights

facebook.com/MTOChicago