

# Missouri Legal Services

Legal aid programs providing free legal help to the low-income and disadvantaged in Missouri



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## Glossary of Commonly Used Missouri Landlord-Tenant Housing Terms

Housing Terms - Revised June 2013.

**ABANDONMENT:** Refers to a situation where a tenant leaves or moves out of a rental unit with no intention to return. Abandonment procedure is governed by Section 441.065 of the Missouri Revised Statutes.

**ABANDONED PROPERTY:** Personal belongings left in a rental unit by a tenant after moving out, and for which a tenant has no intention to retrieve.

**AFFIRMATIVE DEFENSE:** In a landlord-tenant action an affirmative defense is a defense to a lawsuit based on facts or claims other than those stated by the plaintiff in the lawsuit. An affirmative defense alleges facts that, if proven by the defendant, would defeat or reduce a claim even if the allegations alleged by the plaintiff in the lawsuit are all proven.

**ATTORN:** To agree to be the tenant of a new landlord after ownership of a rental property transfers to a new owner or landlord.

**COMPLAINT:** A written statement filed with a court to start a lawsuit. It states the facts of the case and the relief requested (e.g., money, possession of a rental unit, damages).

**CONSTRUCTIVE EVICTION:** Action or inaction by a landlord to make a rental unit unfit or unsuitable for living which forces a tenant to move out or which prevents the tenant from being able to use the unit, e.g., by shutting off utilities.

**DEFAULT JUDGMENT:** A judgment ordered by a court in favor of the plaintiff when the defendant fails to appear in court.

**DEFENDANT:** The person or business being sued in a lawsuit.

**DISTRAINT:** The practice of a landlord seizing a tenant's property if the tenant fails to pay rent. Distraint is illegal in Missouri.

**ESCROW ACCOUNT:** A special bank account where money is held to be paid to another upon the happening of a certain event. For example, a tenant may in some cases place rent in an escrow account until a landlord makes a repair to a serious housing code violation.

**EVICTION:** A court-administered process which a landlord uses to get a court order to remove tenants and their belongings from a rental unit.

**EXECUTION OF JUDGMENT FOR POSSESSION:** The process by which a law enforcement official, usually a sheriff, physically removes tenants and their belongings from a rental unit after the landlord obtains a final court order for eviction of the tenant.

**FIXTURE:** Property which is physically and permanently attached to a building, e.g., an appliance in a rental unit may be a fixture and thus is part of the leased unit.

**FORCIBLE ENTRY AND DETAINER:** Illegal action taken by a person (often a landlord) against a person in possession of a residential property (often a tenant) including, but not limited to, using force or weapons to enter the property, breaking open the doors or windows or other parts of a property, removing doors, carrying away the person's personal belongings, threatening to harm the person, or entering the property and using force or threats to remove the person from the property.

**FORECLOSURE:** A process whereby a property is sold by a lender (usually a bank) at an auction to the highest bidder after the homeowner/borrower fails to make agreed upon mortgage payments or fails to fulfill other terms of a loan.

**HABITABLE:** Describes a rental unit which is free from serious defects to health and safety and fit for humans to live.

**HOLDOVER:** The act of a tenant staying in a rental unit and failing to move from the unit after expiration or termination of a lease. A landlord may refer to a tenant holding over after lease expiration or termination as a "holdover tenant."

**IMPLIED WARRANTY OF HABITABILITY:** A legal rule that requires a landlord to provide a rental unit with facilities and services vital to the life, health and safety of the tenant. The rule does not require a perfect rental unit, but does require the rental unit to be habitable and fit to be lived in while the tenant lives in the rental unit.

**JUDGMENT:** A written court order that is a final determination of the rights or responsibilities of the parties in a lawsuit.

**LANDLORD:** A person or business that owns a property or rental unit and rents or leases it to a tenant.

**LEASE:** A written or oral agreement to rent a property.

**LESSEE:** One who rents or leases a property from another. Lessee is another word for tenant.

**LESSOR:** One who rents or leases a property to another. Lessor is another word for landlord.

**LIABLE:** Legally responsible for causing damage or injury.

**LOCKOUT:** An illegal eviction by a landlord whereby the landlord, without court order, changes the locks to a rental unit so that a tenant may not enter the rental unit.

**MONTH-TO-MONTH LEASE:** A written or oral agreement to rent a unit for one month at time. At the end of each month the lease automatically renews for an additional month unless it has terminated by either the landlord or tenant by giving a full month's written notice.

**NORMAL WEAR AND TEAR:** Deterioration or damage that occurs in a rental unit merely from a tenant living in it in a way that is not careless or abusive. Normal wear and tear damages cannot be deducted from a tenant's security deposit.

**PAY AND STAY:** A Missouri law (Section 535.160 Missouri Revised Statutes) which allows a tenant to pay rent and court costs (other amount may be required in some cases) after the landlord wins a rent and possession lawsuit in order to take away a landlord's right to evict the tenant.

**PROTECTING TENANTS AT FORECLOSURE ACT:** A temporary federal law that allows most tenants living in foreclosed rental properties to complete their leases. For tenants who have month-to-month leases or leases with less than 90 days remaining, it requires the new owner to provide a written 90 day notice to vacate.

**PLAINTIFF:** The person or business who files a civil lawsuit.

**QUIET ENJOYMENT:** The right of a tenant to enjoy and use a rental unit in peace and without disturbance by the landlord.

**RENT AND POSSESSION:** A type of lawsuit filed by a landlord requesting that a court order the tenant to pay unpaid rent and move out of a rental unit.

**RENTAL UNIT:** Property rented from a landlord by a tenant, e.g., apartment, condominium, duplex, house.

**RENTER'S INSURANCE:** An insurance policy purchased by a tenant that covers a tenant's personal property in the rental unit in the event of damage (e.g., fire or flood). The insurance policy may also provide coverage for accidents or injuries that occur on the tenant's rental property.

**REPAIR AND DEDUCT:** A Missouri law (Section 441.234 Missouri Revised Statutes) which allows a tenant in limited circumstances to deduct from the rent certain repairs made by the tenant when the landlord fails to make repairs in a timely matter after written notice by the tenant of the need for repair.

**RESIDENTIAL PROPERTY:** Property meant for people to live in, and which is for non-business purposes.

**SECURITY DEPOSIT:** Money paid by a tenant to a landlord at the beginning of the tenancy. The money belongs to the tenant, but is held by the landlord until the tenancy ends. It can be used by the landlord to cover unpaid rent, to repair damages in the rental unit exceeding ordinary wear and tear caused by the tenant, or to reimburse the landlord for some damages caused by a tenant who fails to give adequate notice to terminate the lease. Governed by Section 535.300 of the Missouri Revised Statutes.

**SERVICE:** The manner or way in which a party to a lawsuit is delivered a copy of court documents, such as a summons or motion. Types of service include: in person, by mail, by posting or by publication in a newspaper.

**SUBLEASE:** A lease where the tenant rents (sublets) their unit to another person (called the subtenant) for the remainder of the lease.

**SUMMONS TO COURT:** A document issued by a court which lets a defendant know that he/she is being sued and demands that the defendant appear in court or respond to the lawsuit by a certain date.

**TENANCY:** The transfer (conveyance) by a landlord to a tenant of the right to occupy and live in a rental unit.

**TENANT:** A person who rents or leases a property or rental unit from a landlord. During the rental period, the tenant has the right to exclusive use and possession of the rental unit.

**TRIAL DE NOVO:** A new trial in front of a different judge which a landlord or tenant can request in most landlord-tenant lawsuits within 10 calendar days of the original court judgment.

**UNINHABITABLE LIVING CONDITION:** A condition which makes it impossible to live in a rental unit. Generally must be a condition which is a serious violation of a local housing or health code.

**UNLAWFUL DETAINER:** A type of lawsuit filed by a landlord to evict a tenant and enforce a lease termination or expiration. The lawsuit may also request that the court order a tenant to pay double rent or damages.

LSEM provides this educational information as a public service. It is not legal advice. Sometimes the laws change. Always consult a lawyer, if you can, before taking legal action. The mission of LSEM is to provide high-quality civil legal assistance and equal access to justice for low-income people in Eastern Missouri. Last updated: April 2013.

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