

Understanding Landlord & Tenant Causes of Action: “When Things Go Wrong”

Common Lawsuits by Landlords and Tenants

Landlord Cause of Action	Tenant Cause of Action
Failure to Pay Rent: Tenant can be evicted for failing to pay rent.	Rent Escrow: Landlord must repair hazardous conditions on property.
Breach of Lease: Tenant can be evicted for a breach of lease.	Wrongfully Withholding a Security Deposit: Landlord can only withhold security deposit for certain reasons.
Wrongful Detainer: Evicting a “Squatter” or uninvited houseguest.	Breach of Covenant of Quiet Enjoyment: Serious disruption on property that interferes with Tenant’s enjoyment of property.
Holding Over: Landlord can evict Tenant who remains on property after lease has ended.	Retaliation: Landlord cannot evict or reduce services of Tenant as a result of a Tenant complaint if complaint is in the last 6 months.
Lawsuits for Money Damages after Tenant Leaves: common suits include damage to property and money lost from Tenant breaking the lease.	

Landlord Causes of Actions

Failure to Pay Rent

Definition: When a Tenant does not pay rent, a Landlord can ask the court to evict the Tenant and request money damages for rent, late fees and, court costs. Landlord can file complaint immediately after Tenant fails to pay rent.

Initial Steps to Take:

1. File a Failure to Pay Rent-Landlord’s Complaint* (DC-CV 082).
- 2a. Service of complaint and summons by posting and mailing, if action is only for repossession of property.
- 2b. Personal Service is required for a money judgment (getting the rent that is owed).

Tenant Defenses:

- Procedural defect in service/complaint: If the Tenant was not properly served (ex. Summons not conspicuously posted), or if the complaint is not completely filled out, the Court may dismiss the action.
- Payment: If Tenant makes payment before Court date, then Tenant can show up at Court and request that the lawsuit be dismissed. Tenant also has the *right to redemption*, which means that even if there is a judgment against Tenant, he/she may make payment at any time before eviction occurs unless Tenant has a certain amount of judgments entered against him/her for failure to pay rent within the past 12 months (rules vary by county).
- Failure to provide lead registration/certificate: If property is an “affected property,” then Landlord must have a current registration with Maryland Department of Environment (MDE), and the MDE inspection certificate or provide a valid reason for not doing so.
- Failure to have a Landlord license/registration: Landlord must comply with local laws for licensing in order for the court to enter a judgment against Tenant.
- Non-rent collection action: Landlord may only request money owed that is related to the payment of rent, late fees, and court costs.
- Tenant is enrolled in Housing Choice Voucher Program: Landlord cannot evict Tenant if Housing Authority failed to pay their portion of the rent. Breach of covenant of quiet enjoyment: When there is a disturbance that seriously interferes with Tenants use and enjoyment of the property. Examples include; excessive noise by other Tenants, failure of Landlord to provide heat or electricity, and illegal lockout. Illegal lockout occurs when the Landlord changes the locks, or otherwise prevents the Tenant from entering the property without a Court judgment. A landlord may not use “self-help” for an eviction.
- Breach of warranty of habitability: Landlords must make repairs and fix conditions that are a serious threat to the life, health, or safety of occupants. Examples include; lack of heat, water, electricity, and inadequate

sewage disposal. It is important to note, that the problem cannot be minor or non-dangerous. **You should notify your landlord immediately of any serious hazards on the property.** If a Landlord fails to fix any serious hazards, the Tenant may use that as a defense in a failure to pay rent lawsuit.

Remedies**:

- Eviction: A landlord must file a “Petition for Warrant of Restitution” after a judgment against Tenant is entered.
- Foreclose right to redeem: If Tenant has a certain number of judgments against him/her for failing to pay rent, Landlord may evict even if Tenant wants to pay rent (rules differ by county).
- Money damages

*The Complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney’s fees may be available.

Breach of Lease

Definition: When a Tenant breaches the lease, the Landlord may request that the court evict of the Tenant. This process can only be used for seeking an eviction.

Initial Steps to Take:

1. Notice of violation of lease. Landlord must give Tenant 30 days written notice before filing the Complaint, or 14 days written notice for a breach of lease that causes a clear and imminent danger of serious harm to others or the property).
2. If Tenant fails to leave property within 30 days, Landlord may file a Complaint and Summons Against Tenant in Breach of Lease (DC-CV-085)*. A copy of the notice must be attached to the complaint.
3. Service of complaint and summons to Tenant by posting and mailing.

Tenant Defenses:

- Procedural defect in service/complaint: If the Tenant was not properly served (ex. summons not conspicuously posted), or if the complaint is not completely filled out, the Court may dismiss the action.
- No notice: If Landlord does not provide written notice within the above described time period, then the court will not order an eviction.
- Breach of lease is minor: A breach of lease must be substantial, in order for to be an eviction. For example, a Tenant can make the argument that damage or loss to property was small, or that the breach was a first violation involving a minor issue to prove that the breach of the lease was not substantial.
- Retaliation: Landlord threatens to file a lawsuit, evict, increase rent, or decrease services (electricity, heat, etc...) of Tenant as a result of Tenant’s complaint of a violation relating to the property being leased. The complaint can either be an informal complaint (telling landlord about a problem), or a complaint and/or judgment in court. Tenant’s complaint must be within last 6 months to be considered retaliatory.

Remedies**:

- Eviction: If the court finds that there is a breach of lease they will issue an Order of Restitution, which orders the Sherriff to remove the Tenant from the property.

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney’s fees may be available.

Wrongful Detainer

Definition: A person living in Landlord’s property without permission (“squatter” or uninvited house guest). Landlord can file a lawsuit against person for money damages and eviction.

Initial Steps to Take:

1. Complaint for Wrongful Detainer* (DC-CV-089).
- 2a. If action is only for repossession of property, service by posting and mailing to Tenant is sufficient.

2b. Personal Service is required for a money judgment (damages caused by person living on property and/or reasonable rent owed).

Tenant Defenses:

- Procedural defect in service/complaint: If the Tenant was not properly served (ex. summons not conspicuously posted), or if the Complaint is not completely filled out, the Court may dismiss the action.
- Entitled to possession of property: If there is an agreement or written lease, which gives possession to the person, then a lawsuit for Wrongful Detainer is improper.

Remedies:**

- Eviction: If court finds that the person is living on the property without permission, they will issue an Order of Restitution, which orders the Sherriff to remove the person from the property.
- Money damages

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney's fees may be available.

Holding Over

Definition: When a Tenant remains on the property after the lease has expired, Landlord can file an action against Tenant for money damages and eviction.

It should be noted that if a Landlord has been granted possession of the property by the court in another type of Landlord/Tenant proceeding (Ex. Failure to Pay Rent or Breach of Lease), then a Complaint and Summons Against a Tenant Holding Over is not the proper method of evicting the Tenant. The procedures for eviction in those particular lawsuits should be followed.

Initial Steps to take:

1. Landlord must give Tenant 30 days written notice if there was a tenancy of definite duration (date stated on lease) or a month-to-month lease. Landlord must give 3 months written notice if there was a year-to-year tenancy.

2. Complaint and Summons Against Tenant Holding Over* (DC-CV- 080) .

3a. If action is only for repossession of property, service of complaint and summons to Tenant by posting and mailing is proper.

3b. Personal Service is required for a money judgment (getting money that is owed).

Tenant Defense:

- Procedural defect in service/complaint: If the Tenant was not properly served (ex. summons not conspicuously posted), or if the Complaint is not completely filled out, the Court may dismiss the action.
- Improper notice: If Landlord does not send notice, the Court will dismiss the lawsuit for Holding Over.
- Existence of agreement to stay on property: If there is evidence that the Landlord has granted the Tenant permission to stay on the property after to lease expires, then a lawsuit for Holding Over is improper.

Remedies:**

- Eviction: If court finds that the person is living on the property without permission, they will issue an Order of Restitution, which orders the Sherriff to remove the person from the property.
- Money damages
- Existence of lease: If there is a lease, and the Tenant owes rent money, the Landlord can sue the Tenant for **Failure to Pay Rent.**

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney's fees may be available.

Lawsuits for Money Damages after Tenant Leaves

Definition: A Landlord may file a lawsuit for money resulting from damage to the property caused by the Tenant that is beyond “ordinary wear and tear.”

A landlord may also claim money damages for a Tenant’s breach of the lease (ex. Tenant breaks the lease early; Tenant is liable for rent owed for the remainder of the lease).

Landlord’s Initial Steps to Take:

1. General complaint form ([DC-CV-001](#))*.
 - a. If the complaint is for less than \$5,000, it is considered a “Small Claim,” and the court rules are more informal.
 - b. If the Complaint is for more than \$5,000, it is considered a “Large Claim.”
2. Personal Service is required.

Tenant’s Initial Steps to Take:

1. Tenant must file a “Notice of Intention to Defend.”
2. Tenant may file a counterclaim if Tenant thinks that Landlord owes money. For example, if Landlord is claiming that Tenant damaged property, and is withholding Tenant’s security deposit, but Tenant believes that there is no damage to property, Tenant can file a counter claim for Wrongfully Withholding a Security Deposit.

Tenant Defenses:

Damage to Property

- Procedural defect in service/complaint: If the Tenant was not properly served, or if the Complaint is not completely filled out, the Court may dismiss the action.
- Security deposit covered damages: If the security deposit that the Tenant gave Landlord when the lease was signed covers the damages to property, then Landlord already has a remedy, and the lawsuit should be dismissed.
- Ordinary wear and tear: A landlord may not charge a Tenant for damages that result from “ordinary wear and tear.” This is a common sense rule. For example, the Landlord may not charge a Tenant to replace a carpet that is worn from use over time, or to repaint walls because there are small holes where pictures were hung. Condition of the property at the time it was rented, and how long the tenant lived on the property are also relevant factors.

Breach of Lease

- **Mitigation of damages:** When a Tenant breaks a lease before it ends, generally the Tenant is liable for the remainder of the lease term. However, the Landlord must make reasonable efforts to find a new Tenant. If the Landlord does not, then he cannot collect unpaid rent that is owed.
- **Constructive Eviction:** When there is a disturbance that seriously interferes with Tenants use and enjoyment of the Property. Examples include excessive noise by other Tenants, failure of Landlord to provide heat or electricity, and illegal lockout. Illegal lockout occurs when the Landlord changes the locks, or otherwise prevents the Tenant from entering the property without a Court judgment. A landlord may not use “self-help” for an eviction.
- **Security deposit covered rent owed:** If the security deposit covers the rent that is owed, then Landlord already has a remedy, and the lawsuit should be dismissed.

Remedies:**

- Money Damages

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney’s fees may be available.

Source: People’s Law Library of Maryland

Tenant Causes of Actions

Rent Escrow

Definition:

A Landlord is required to repair and eliminate conditions that are a serious threat to life, health, or safety of occupants. If there is a dangerous condition, the Tenant **should not** withhold rent from the Landlord. The Landlord can bring an action for *Failure to Pay Rent*. The proper way to get a Landlord to fix a dangerous condition, is to file a Complaint for Rent Escrow. The Tenant will pay rent in to an “escrow account,” that is set up by the Court, until the Landlord fixes the dangerous condition.

Initial Steps to take:

1. Notice to Landlord: Inform landlord of problem. Can be informal (letter, in person, by phone, etc....). Written notice is recommended.
- 2a. Tenant gives Landlord reasonable time to make repairs.
- 2b. If Tenant is enrolled in Housing Choice Voucher Program; request that Housing Authority inspect the property. 3. File a Complaint for Rent Escrow (DC/CV 83)*.

Landlord Defenses:

- Procedural defect in service/complaint: If the Landlord was not properly served, or if the Complaint is not completely filled out, the Court may dismiss the action.
- No Notice: If a Landlord never received notice of the problem, the court can either postpone or dismiss the action.
- No reasonable time to repair: Tenant must give Landlord reasonable time to repair. The more serious the problem, the longer it may take to repair.
- Repairs made: Landlord has fixed the serious problem.
- Landlord not allowed entry on to property: After Tenant gives Landlord notice of the problem, the Tenant must allow Landlord or his/her repair persons on to the property.
- Problem with property is not a hazardous condition: Problem on property must be a serious threat to life, health, or safety of occupants. Problem cannot be minor or cosmetic.
- Tenant caused serious problem to property: If the Tenant caused the damage to the property, the Landlord is not responsible for repairing it.
- Court entered judgments for failure to pay rent: If the court has entered three or more judgments against the Tenant for failing to pay rent in the last 12 months, the court will not issue a rent escrow order. Specific rules vary by County.

Remedies**:

- Serious defect repaired: The landlord will repair the serious problem after the court issues a rent escrow order and sets up a rent escrow account. The Landlord has 90 days to make repairs to the property. During this time, it is important to; **(1) allow Landlord or repairpersons on to property to make repairs, and (2) pay rent in to escrow account.** Failure to do so, may result in stopping the rent escrow action early.
- Rent Escrow: If landlord fails to make repair within 6 months, you can request that the court give you the money paid in to the escrow account. You can also request money from the escrow account, if you spent your own money making repairs.
- Termination of lease (constructive eviction): If the court finds that the defects are a serious problem, you can ask the court to terminate the lease, and you will not be responsible to pay any future rent due.
- Relocation if repairs take long period of time: If the repairs will take a long time to repair, you can ask the court to have the Landlord pay for a temporary relocation, while the repairs are being made.
- Rent Abatement: You can the Court for a reduction in rent, if the condition on the property is very serious.

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney's fees may be available.

Wrongfully Withholding a Security Deposit

Definition: The Landlord may keep any portion of the security deposit for unpaid rent, damages due to breach of lease, or damage to the property that is in excess of “ordinary wear and tear.”

“Ordinary wear and tear” is a common sense rule. For example, a Landlord may not charge a Tenant to replace a carpet that is worn from use over time, or to repaint walls that have small holes in the walls where pictures were hung. Condition of the property at the time it was rented, and how long the tenant lived on the property are also relevant factors.

The Landlord must send a written statement of damages to the Tenant within 45 days after the lease has ended. If a Tenant disagrees with the statement of damages, or the Landlord fails to send a written statement of damages, a Tenant may file a lawsuit against Landlord.

Initial Steps to take:

1. General complaint form ([DC-CV-001](#))*.
 - a. If the complaint is for less than \$5,000, it is considered a “Small Claim,” and the court rules are more informal.
 - b. If the Complaint is for more than \$5,000, it is considered a “Large Claim.”
2. [Personal Service](#) is required.

Landlord’s Initial Steps to Take:

1. Landlord must file a “Notice of Intention to Defend.”
2. Landlord may file a counterclaim if Landlord thinks that Tenant owes money.

Landlord Defenses:

- Procedural defect in service/complaint: If the Landlord was not properly served, or if the Complaint is not completely filled out, the Court may dismiss the action.
- Notice requirements met: If the Landlord sent a written statement of damages within 45 days from the end of the lease, then the Tenant cannot claim that notice was improper
- Withholding Security Deposit was reasonable: If security deposit was withheld with reason, the court may allow the Landlord to keep all or a portion of the security deposit (only some of the damages that were claimed were reasonable).

Remedies:**

- Return of Security Deposit: Tenant may be entitled to the return of all or a portion of the security deposit, plus interest.
- Triple damages: If the court finds that there was no reasonable basis to withhold a security deposit, the court may award the Tenant triple the value of the security deposit.

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney’s fees may be available.

Breach of Covenant of Quiet Enjoyment

Definition: When there is a disturbance that seriously interferes with Tenants use of the Property. Examples include excessive noise by other Tenants, failure of Landlord to provide heat or electricity, and illegal lockout. Illegal lockout occurs when the Landlord changes the locks, or otherwise prevents the Tenant from entering the property without a court judgment. A landlord may not use “self-help” for an eviction.

Initial Steps to take:

1. Notice to Landlord.
2. Reasonable opportunity for Landlord to fix.
3. Petition for Injunction ([DC/CV 83](#))*.

Landlord Defenses:

- Procedural defect in service/complaint: If the Landlord was not properly served, or if the Complaint is not completely filled out, the Court may dismiss the action.
- No Notice: If a Landlord never received notice of the problem, the court can either postpone or dismiss the action.

- No reasonable time to repair: Tenant must give Landlord reasonable time to fix the problem. The more serious the problem, the longer it may take to repair.
- The disturbance is minor: The disturbance must seriously interfere with Tenant's enjoyment. It cannot be a mere annoyance.

Remedies:**

- Landlord fixes problem: Court can order the Landlord to fix the problem. If there is an illegal lockout, the Court can also order that the Tenant be granted entry on to the property again.
- Termination of lease (constructive eviction): If the court finds that the problem is serious or the Landlord has failed to fix it, you can ask the court to terminate the lease, and you will not be responsible to pay any future rent due. You can also ask the court for moving expenses, and ask the Landlord to pay the difference between a new rental and the Tenant's previous rent owed.

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney's fees may be available.

Retaliation

Definition:

Landlord threatens to file a lawsuit, evict, increase rent, or decrease services (electricity, heat, etc...) of Tenant as a result of Tenant's complaint of a violation relating to the property being leased. The complaint can either be an informal complaint (telling landlord about a problem), or a complaint and/or Judgment in court. Tenant's complaint must be within last 6 months to be considered retaliatory.

Initial Steps to take:

1. General complaint form (DC-CV-001)*.
 - a. If the complaint is for less than \$5,000, it is considered a "Small Claim," and the court rules are more informal.
 - b. If the Complaint is for more than \$5,000, it is considered a "Large Claim."
2. Personal Service is required.

Landlord's Initial Steps to Take:

1. Landlord must file a "Notice of Intention to Defend."
2. Landlord may file a counterclaim if Landlord thinks that Tenant owes money.

Landlord Defenses:

- Procedural defect in service/complaint: If the Landlord was not properly served, or if the Complaint is not completely filled out, the Court may dismiss the action.
- Denial of Retaliation: Defendant may claim that there was no complaint in the past six months, or that there was no reduction of services. Eviction by Landlord was based upon lawful reasons.

Remedies:**

- Money damages: Tenant may ask for up to 3 months' rent.

*The complaint must be completely filled out and filed in the District Court of the county where the property is located. The court will then issue a summons.

**Attorney's fees may be available.

Source:

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