



# TENANT DEFENSE GUIDE

Richmond Tenants' Union (RTU)

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*This guide is derived from the **New River Workers Power Tenants Defense Guide***

*(editors note: this is not legal advice, but a short introduction to your rights as a tenant in Virginia as defined by the Virginia Residential Landlord and Tenants Act)*

## Moving In

**Before moving yourself and all your belongings into a new residence it is crucial that you inspect and document the dwelling and its conditions first.** This means taking pictures of every room, every appliance, every nook and cranny that comes with the place and which the landlord expects you to maintain during your lease.

A very common reason landlords give when they steal your security deposit is that you, as a tenant, didn't return the dwelling to the original condition which you found it. If there is no proof to show otherwise you will have a very hard time winning your case in court and recuperating your money. In fact the [Virginia Residential Landlord and Tenant Act](#) (VRLTA) gives you the right to a written report from your landlord on the initial conditions of your dwelling unit upon moving in.

The law requires that 5 days after move in, your landlord will submit a written report listing damages, which will be considered correct unless you object within 5 days. A landlord may also permit a tenant to submit the report (which the landlord may object or the tenant and landlord may jointly prepare the report at move-in and both will sign). The landlord is not required to make repairs to damages unless doing so will be in violation of laws regarding mold and the maintenance of fit premises. [see § 55.1-1214. **Inspection of dwelling unit; report.** ]

We definitely recommend you demand from your landlord a written statement of the initial conditions of your unit and make sure it lines up with what you have found inspecting and documenting the dwelling before signing off on the written report. It is also important to know your rights as a tenant regarding full disclosure from your landlord if the dwelling has visible mold.

This is why we emphasize inspecting the unit and documenting it. If the landlord is not notified of the problem then they cannot be held liable for remediation unless they had prior knowledge. Landlords are required to disclose whether or not there is visible mold within your unit as part of your move-in report. You also have 5 days to challenge this in the move-in report.

If your landlord does disclose there is mold you have the right to cancel your lease or demand your landlord treat the mold, which they have 5 days to do after you have decided to honor the lease. Your landlord is also required to re-inspect the unit after mold remediation to ensure it has been fixed and will issue a new report documenting this. [see § 55.1-1215. **Disclosure of mold in dwelling units.**]

So just to reemphasize, inspect and document your dwelling. Make sure your written report issued by the landlord is accurate with your documentation. Also be sure to have a safe place to hold all your evidence and

legal documentation. You can email all of this to New River Tenants Union for safe keeping if you are concerned about losing any important documentation. These reports affect your legal rights and can be crucial in any future disagreement so you have to treat this as a legal case where you are gathering evidence. This will also show your landlord you know how to protect yourself. We all wish we could have pleasant and positive working relations with everyone in our lives, but the reality is those in positions of power are inclined to take advantage of those under them unless they can be held accountable.

## Living In

**Your landlord is legally required to meet the following obligations to you as a tenant:**

1. Comply with building and housing codes affecting health and safety
2. Make all repairs and do whatever is necessary to keep the premises in a fit and habitable condition
3. Keep all common areas shared by tenants in a clean and structurally safe condition
4. Maintain in good and safe working condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required
5. Maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of mold, and to promptly respond to any notices from a tenant. Where there is visible evidence of mold, the landlord shall promptly remediate the mold conditions and reinspect the unit to confirm there's no visible evidence of mold. The landlord shall provide a tenant with a copy of the report related to mold remediation during the lease and, upon request of the tenant, make available the full package of such information and reports not protected by attorney-client privilege. Once the mold has been remediated, the landlord shall not be required to make disclosures of a past incidence of mold to future tenants
6. Provide and maintain trash cans for the collection, storage, and removal of trash and other waste as well their removal from your dwelling
7. Supply running water and reasonable amounts of hot water at all times and reasonable air conditioning if provided and heat in season except where the unit is so constructed that heat, air conditioning or hot water is generated by an installation within the exclusive control of the tenant or supplied by a direct public utility connection
8. Provide a certificate to the tenant stating that all smoke alarms are present, have been inspected, and are in good working order no more than once every 12 months. The landlord, his employee, or an independent contractor may perform the inspection to determine that the smoke alarm is in good working order

[see § 55.1-1220. **Landlord to maintain fit premises.**]

While your landlord is obligated to provide maintenance, this cannot be enforced without you providing written notice. This notice should include what the issue is, and how soon you need it fixed, within reason.

If after issuing your landlord a written notice of needed maintenance and they fail to address the issue within a reasonable time, you may exercise your right to a **tenants assertion**. "A reasonable time" is left to the discretion of the court, but it is presumed to be less than 30 days unless rebutted. A tenants assertion allows you to pay your rent to the general district court which will be held until your landlord fulfills their legal obligations to provide safe and adequate housing to you.

The following passage in the VRLTA further clarifies the issue:

*"if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with any provision of this chapter, materially affecting health and safety, the tenant may serve a written notice on the*

*landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if such breach is not remedied in 21 days.”* [see § 55.1-1244. *Tenant’s assertion; rent escrow.*]

We recommend you refer to the VRLTA for further information regarding the landlord’s obligation to reimburse you for any damages to personal property as a result of their failure to properly maintain the dwelling. The VRLTA also has further guidelines a landlord has to comply with such as your rights to privacy, adequate locks, peepholes, cable access, notice of insecticide/pesticide use, among other things. [see § 55.1-1221. **Landlord to provide locks and peepholes,** § 55.1-1222. **Access of tenant to cable, satellite and other television facilities,** § 55.1-1223. **Notice to tenants for insecticide or pesticide use**]

**Notice:** Before we go on any further we would like to take a moment to clarify what is considered “written notice” and what is the ideal way to provide this to your landlord. Emails, texts, basically any means in which there is a written record between yourself and your landlord can be considered as legal evidence in Virginia courts, but doesn’t necessarily mean they will be accepted as legitimate evidence. The best practice for providing written notice is to send a certified letter through your local post office, stipulating what repairs are needed, how soon you need them fixed, and when is the best time for your landlord to access your unit to make the repairs. A certified letter also ensures that the letter was delivered and received by your landlord. Make sure to keep a copy of any written notices you mail as well [ see § 55.1-1202. **Notice.**]

## Eviction

**If for whatever reason you have found yourself in breach of your lease your landlord has the right to evict you from their premises, but this can only be done once proper notice has been issued by your landlord and the courts have ruled in their favor, which will result in the sheriff issuing an eviction notice.** There is no other legal way you may be evicted, a landlord simply telling you you are evicted is not legitimate, they do not have the right to lock you out of your dwelling, limit access to utilities, or seize your possessions inside their unit as a result of you breaching your lease.

If and when you go to court over an eviction the judge tends to favor the prevention of your eviction, but only by allowing you to pay off all costs owed to your landlord. If you are able to do so the eviction will be stopped by the judge, but you are only allowed to do this once in a 12-month period. If you are facing an eviction we recommend you contact your local legal aid organization (In Richmond, LAJC. link below) which will provide free legal representation and advice if you meet their qualifications based on income level.

It’s important to remember even if you stop your eviction by full payment owed to your landlord they still retain the right to evict you for up to one year after a resolution has been reached which allows you to remain a tenant. This is called accepting “rent with reservation” [see § 55.1-1250. **Landlord’s acceptance of rent with reservation.**].

## Moving Out

**Your landlord will inspect your unit when your lease ends and you move out.** This inspection will determine what charges the landlord may make and take out of your security deposit. You do have the right to be present for the move-out inspection and the right to the disposition statement which outlines and itemizes damages to the unit, if any. Your landlord must issue your security deposit within 45 days of the end of your lease or otherwise provide written notice as to why you will not receive your security deposit back due to damages and costs caused by you. Please refer to the follow passages in the VRTLA regarding security deposits:

*The landlord shall:*

- 1. Maintain and itemize records for each tenant of all deductions from security deposits...which the landlord has made by reason of a tenant's noncompliance*
- 2. Permit a tenant...to inspect such tenant's records of deductions at any time during normal business hours.*
- 3. Upon request by the landlord to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice of the tenant's right to be present at the landlord's inspection of the unit when determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection they shall so advise the landlord in writing who, in turn, shall notify the tenant of the time and date of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing herein shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.*

*[see § 55.1-1226. Security deposits.]*

## **Direct Action**

**While we emphasize the importance of knowing the law, your rights, and building your legal case to defend yourself as a tenant we want to make it clear that the courts are not your friend.** You should not rely on them to get justice when its needed. Instead, we should rely on taking direct action with our neighbors and fellow tenants. Every thing stands stronger when organized together rather than being isolated and separated. You as a single tenant have very little power in the face of millionaire slumlords who can afford lawyers, and who have the social capital with local judges, bureaucrats, and others in positions of authority to get their way against you.

You have the legal right to band together with other tenants to organize and form a tenants union or association, which we highly recommend to better defend yourself against any actions your landlord may take that negatively impacts you [ see § 55.1-1258. **Retaliatory conduct prohibited.**].

A rent strike is illegal in Virginia, so you should build significant organization and power among tenants before pursuing this tactic. Withholding rent without going through the court will allow your landlord to legally evict you. You should prepare for this possibility.