

- 1) Landlord may never lock out a tenant, “throw out” a tenant without a court order, nor use any threat of violence, words or actions, which intimidate the tenant into surrendering the rental premises.
- 2) Landlords must follow the proper legal procedures to evict a tenant, even when the eviction is for cause.
- 3) Landlords may be entitled to a lien on some of the tenant’s personal property in or on the rental property, for the value of unpaid rent and for reasonable cost incurred in enforcing the lien.
- 4) Tenants are expected to take care of the rental property, incurring no damage other than “normal wear and tear”. Tenants are expected to pay for damages other than normal wear and tear. Extraordinary intentional damages might be cause for criminal charges.
- 5) Landlords may use the security (damage) deposits to cover unpaid rent, unpaid utilities, unpaid repairs contracted for by the tenant, and for damages beyond “normal wear and tear”
- 6) Landlords must refund security deposits, or alternatively, provide a written itemization of what has been retained, within 30 days after the tenant leaves. If the landlord fails to do so, they lose all rights to any part of the deposit and may be liable to the tenant for triple the amount retained. No provision in an agreement is valid in which the tenant waives any of their rights pertaining to security deposits.

**LEASES:** A written lease should protect both the landlord and the tenant. Most leases are for a term of 6 months to one year. A variety of standard lease forms are available at most office supply stores. Both parties can add their own provisions to these forms to fit special needs or problems. Both parties must agree on these additions before signing the agreement. To avoid common disputes, the lease should contain provisions clearly stating who is responsible for utilities payment, for repairs and maintenance for the premises and on fixture and appliances, who is responsible for trash and snow removal, yard care, etc. The lease should also contain a fixed due date for rent, the amount due for rent and, if there is any, grace period or late penalty fee. The lease should state clearly what if any pets are allowed.

**UPON MOVING IN:** It is important for the landlord and tenant to examine the condition of the premises closely, preferably together. All faulty conditions, defects, cracks, dirty walls, condition of carpet and tile, leaky faucets, etc., should be noted and written down on duplicate copies to be signed by both parties. It may be beneficial to photograph or video tape the rental property. This will show both the pre-existing damage as well as the absence of damage. Such precautions will save untold arguments later when it is time to refund damage deposits.

### **TRESPASS AND LOCKOUT BY**

**LANDLORD:** In absence of an agreement to the contrary, the landlord surrenders both possession and control of the premises to the tenant. Thus during the tenancy the landlord has no right to enter the premises without the permission of the tenant, *except under these circumstances*, 1) to make a demand for payment of rent, 2) to assert the landlords lien over the tenants property, 3: to make emergency repairs. **A landlord’s entry without permission for any other reason may be cause for civil damages or criminal charges of trespass.**

A landlord may not lock out a tenant for any reason, unless they have first obtained a court order. If the landlord locks out a tenant, without a court order the tenant has every right to re-enter the premises as long as they do as minimal damage as possible.

### **LANDLORDS LIEN ON TENANTS**

**PROPERTY:** When a landlord is due money for rent, they may assert a lien against *some* of the tenant’s personal property, but only if the rental property is an apartment, trailer space or storage facility. This law does not extend to single family dwellings or business properties. The landlord is required to obtain the property by “peaceable” means, that is the property can not be seized over the resistance or objection of the tenant. However the lien may be asserted when the tenant is not home. Under Colorado Statute 13-54-102 the landlord cannot remove bed, bedding, small kitchen appliances, cooking utensils, clothing, personal or business documents or personal effects. ***While the landlord had the right to make the lien seizure, they must be very careful to follow proper legal proceedings. Lien proceedings are generally complex and normally require the assistance of a private attorney.***

***UNDER NO CIRCUMSTANCES SHOULD THE LANDLORD SELL OR OTHERWISE DISPOSE OF THE SEIZED PROPERTY WITHOUT FIRST CONSULTING WITH AN ATTORNEY.***

**EVICTIONS:** The greatest number of questions from both landlord and tenants concern evictions. The landlord may evict a tenant under the following circumstances:

>>>**Failure to pay rent on time:** If the tenant fails to pay on time the landlord may begin the procedure to recover the property by serving a “**Demand for Compliance or Right to Possession Notice**” *No agreement or lease may waive the tenants right to this 3 day notice.* Within 3 days the tenant is expected to pay the full amount demanded, or in the alternative, vacate the premises. **Vacating the premises, however, will not relieve the tenant of the obligation to still pay the amount due to the landlord**

>>>**Breaking terms of the lease:** If the tenant breaks any of the written or verbal terms of the lease, the tenant may be evicted by serving a “**Demand for Compliance or Right to Possession Notice**” Even if the tenant remedies the situation, the landlord may still proceed to evict the tenant. If the tenant fails to leave voluntarily, the landlord must proceed with the eviction process in court. (See below)

>>>**Eviction for no specified reason:** In the absence of a lease which sets firm a period of occupancy, and when the tenant just pays periodically (usually monthly) to stay for an additional period of time, no reason to evict is required when the landlord follows the proper legal procedure. The Landlord must give the tenant a “**Demand for Compliance or Right to Possession Notice**” Again, if the tenant fails to leave voluntarily, the landlord must proceed with the eviction process in court. (See below)

### **COURT EVICTION:**

>>>**After** the “Demand for Compliance or Right to Possession Notice” is served the landlord must file a “**Forcible Entry and Detainer**” in the county court, this is a process of restoring possession of premises (rental) to the rightful owner.

- You must have served the tenant a Demand for Compliance or Right to Possession Notice and the three-day time to vacate must have passed. If the last day of any period is a Saturday, Sunday or legal holiday the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.
- The action must be filed by a “person in interest” i.e. the property owner or other individual or entity identified as the landlord or lessor on the lease. If you are the property manager or the individual or entity acting as an agent for the owner(s) you may be required to show proof of your authority.
- The action must be filed in the County where the property is located

## COURT EVICTION CON'T:

- The judgment amount is limited to \$15,000.00 (if personally served) in county court and must be filed in the county in which the property is located.
- If you are the Defendant do not disregard the Complaint. If you do, a judgment could be entered against you.
- If you are the Plaintiff do not disregard a response or counterclaim. If you do, a judgment could be entered against you.

The tenant may contest the eviction, if they think they have legal grounds to do so. To contest the eviction, the tenant, now the “defendant”, must file an “Answer” to the court or appear in person. If the tenant fails to do either, the Court will find for the “plaintiff” (landlord). The tenant will have 48 hrs to vacate the premises and if he fails to do so the landlord may ask the court to issue a “**Writ of Restitution**” which the court **orders the Sheriff’s Department** to restore the premises back to the landlord.

**>>The tenant should attempt to “pay up or leave” as soon as they get the landlords “Demand for Compliance or Right to Possession Notice” should the case proceed to court, the tenant will normally be required to pay the additional costs of the proceedings and the Sheriff’s fees and costs. <<**

**ALL FORMS MENTIONED ARE AVAILABLE AT THE GRAND COUNTY COURTS, THE GRAND COUNTY SHERIFF’S DEPT. OR CAN BE FOUND ON LINE**

[www.courts.state.co.us](http://www.courts.state.co.us)

## APPLICABLE COLORADO LAWS

Below are some statutory references pertaining to landlord/tenant law. If you have further questions you should read the applicable law or consult with an attorney for advice.

**General provisions concerning Forcible Entry and Detainer:** 13-40-101 through 13-40-126

**Landlord Liens:** 38-20-101 through 38-20-102

**Security Deposits:** 38-12-101 through 38-12-103

**Mobile Home Park Act:** 38-12-200.1 through 38-12-16

### HOW TO SERVE:

#### Demand for Compliance or Right to Possession

**Notice:** This can be served by personal service to the subject or posting in a conspicuous place upon the premises by either the Sheriff’s Department Civil Division,\* private server, or any disinterested party of the age of 18 years.

#### Forcible Entry and Detainer:

This can be served by personal service to the subject or posting in a conspicuous place upon the premises by either the Sheriff’s Dept. Civil Division,\* private server, or any disinterested party of the age of 18 years.

**Writ of Restitution:** This is a court order ordering the Sheriff’s Department to restore the premises back to the landlord and **must** be carried out by the Sheriff’s Department.

\*contact the Sheriff’s Dept. for fee cost

The Grand County Sheriff’s Department has prepared this information to benefit both landlords and tenants in understanding their obligations under the law.

Both parties should understand that the landlord-tenant relationship is civil in nature, therefore the role of the Sheriff’s Department is to “keep the peace”. This information is *not* intended to be legal advice and does not address the specific statutory and legal issues of evictions and Writs of Restitutions.

Our only intent is to provide the public with general guidelines.

We recommend that you first personally research the statutes, or contact an attorney or the courts before relying on this information for legal purposes or proceeding with any action.

The Sheriff’s Department Civil Division will assist you as much as possible.

## ANSWERS TO YOUR QUESTIONS ABOUT...

### LANDLORD/TENANT LAWS



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HOT SULPHUR SPRINGS,  
CO 80451  
(970) 725-3343**

**Rodney D. Johnson  
Sheriff**