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## **Federally Subsidized Housing – Unit Based (including public housing) - 2023**

### **What is federally subsidized housing?**

Federally subsidized housing means that the government pays part or all of your rent. The part of your rent the government pays is called the “subsidy.” Unlike private rental housing, landlords in federally subsidized housing have many more rules to follow. These rules decide about who gets into the housing (admissions), rents, leases, grievances, and evictions. If you live in federally subsidized housing, you have more legal rights than tenants in private rental housing. These rights include the following things.

- The landlord must follow certain rules about who gets admitted to the housing.
- Your rent is limited.
- Usually you pay no more than 30% of your income for rent and utilities.
- Your tenancy usually is not time limited. As long as you don’t break the lease or the law, you are allowed to stay.
- You may be evicted only for good cause.
- Usually you must be given notice and a chance to contest a denial of admission.
- Before your subsidy may be ended, you must be given notice and a chance to contest.

### **What are the types of federally subsidized housing?**

There are two types of federally subsidized housing. In one type, the subsidy is tied to the housing unit. This is called “unit-based assistance.” In the other type, the subsidy is tied to the tenant. This is called “tenant-based assistance.” This article is about unit-based assisted housing. Other articles on this web site are about tenant-based assisted housing.

### **What is unit-based assisted housing?**

There are many types of unit-based assisted housing.

- Public housing owned and operated by a public housing authority (PHA).
- FHA §221(d)(3) and §236 housing, which usually is privately owned rental housing insured and subsidized by the Federal Housing Administration (FHA).
- FmHA §515 rural rental housing, which usually is privately owned rental housing, insured and subsidized by the Rural Housing Service (formerly Farmers Home Administration).

- §8 new construction, substantial rehabilitation, and moderate rehabilitation, which usually is privately owned rental housing insured and subsidized by the U.S. Department of Housing and Urban Development (HUD).

### **How do I apply for unit-based assisted housing?**

In public housing, you usually apply at the PHA. In other unit-based assisted housing, you apply at the management office for the project. In all programs your application must be accepted, unless the waiting list is so long there is no reasonable chance you can get housing within a year. You can apply at more than one housing agency. Each housing agency has its own system for applications. Sometimes there are long waiting lists. If you're willing to move, you might find a housing agency that can offer you housing right away. So check around.

Once your application is accepted, your name is put on a waiting list. You must be told about preferences for admission. You may be required from time to time to say you are interested in admission. If you fail to do so, your name may be removed from the waiting list.

Waiting lists usually are kept by number of bedrooms needed. Waiting lists also may be separated based on preferences for admission. When there is a vacancy, the unit must be offered in the order of bedroom size, preferences, and date & time of application.

### **Who may get a preference for unit-based assisted housing?**

The landlord may give a preference to these people: working people, the disabled, the elderly (age 62 or older), the homeless, victims of domestic violence, and people who live in a particular area.

### **Who may be admitted to unit-based assisted housing?**

The landlord must use the following rules to decide who gets admitted.

- Usually, your income can be no more than 80% of area median (average) income. Income limits vary from area to area, so you may be eligible at one housing agency but not another.
- There is no resource limit. If you have more than \$5,000 in assets, part of that can be counted as income.
- There is no minimum income requirement. However, the landlord may look at your ability to pay basic subsidized rent.
- The landlord may not use your race, color, religion, national origin, sex, family Status (having children under 18, or being a pregnant female), elderliness (55 or older), disability, source of funds, sexual orientation, gender identity, military status, or past bankruptcy against you.
- Both single individuals and families may be admitted. Some units are reserved for elderly and handicapped families.
- Only U.S. citizens and eligible immigrants may be admitted.

The landlord must have written rules to decide who gets admitted. These rules must be based on your fitness as a tenant. The landlord may look at your past behavior in paying debts and bills, especially rent. The landlord also may look at your past behavior as a tenant. In addition, the landlord may look at your criminal record, if it involves crimes of physical violence to persons or property, or crimes affecting other tenants.

If the landlord gets things not in your favor, the landlord also must look at things in your favor that would show your fitness as a tenant. The landlord must look at the time, nature and extent of your behavior, and whether it has gotten better. The landlord also must look at whether you are in (or will be in) social service, counseling, training or job programs, and whether you are willing to increase your income.

If you don't get admitted, the landlord must give you a written notice telling you why. This notice must tell you of your right to contest the denial in writing and/or in person.

### **How is rent set in unit-based assisted housing?**

In federally subsidized housing, your rent is less than it would be without the subsidy. Usually you pay 30% of your adjusted monthly income for your housing costs. Your housing costs means both rent and utilities. Your adjusted monthly income means your total income minus certain deductions. There are deductions for dependents, elderly and disabled families, high medical expenses, and costs of child care needed to go to work or school.

If all utilities except telephone are included in the rent, your rent is 30% of your adjusted monthly income. If all utilities except telephone are not included in your rent, your rent is 30% of your adjusted monthly income minus a "utility allowance." A utility allowance is the reasonable cost of a modest amount of utilities.

If the utility allowance is more than 30% of your adjusted monthly income, you pay no rent. You also get a monthly utility allowance check equal to the difference.

To be sure you pay the right amount of rent, you must report your income at least once a year. You also must report changes in income and family size right away.

### **What does the lease say in unit-based assisted housing?**

You must be given a written lease. The lease must tell you the amount of rent, when rent is due, the landlord's duty to keep the housing in good repair, your rights and duties, the way to handle disputes, and the way to handle evictions. Everything in the lease must be reasonable.

### **How do I handle problems in unit-based assisted housing?**

In most federally subsidized housing, if you have a problem with the landlord, you may ask for a grievance hearing. You must ask for this in writing. You must ask for a hearing within 10 days after anything you disagree with. You can use a grievance to deal with things like repairs, security, guests and visitors, and the amount of rent owed, without going to court.

The hearing is held in front of an unbiased person. You may look at the landlord's records, be represented, present evidence, question the landlord's evidence, and have a written decision. If you win the decision, your landlord must follow it. If you lose the decision, you still may contest it if the dispute goes to court.

### **What are the reasons for eviction from unit-based assisted housing?**

All federally subsidized housing landlords must have a good reason to evict you. This means breaking the lease in a major way or many times, breaking the law in a major way or many times, or some other good reason. A good reason would be not paying rent, not obeying the lease, damaging property, or causing a danger to health or safety.

You must get an eviction notice from your landlord before you can be taken to court. The notice must tell you the specific reasons for eviction. The reasons must be clear enough to let you defend against them. The notice must tell you how and by what date to contest the decision to evict, and the proposed date for ending your tenancy. The notice also must tell you that the landlord must use court to evict you, that you have the right to present defenses, and that only the reasons stated in the notice can be used to evict you.

### **What notice is needed to evict me from unit-based assistance?**

If a landlord of a HUD subsidized unit-based rental wants to evict you for not paying rent, the landlord must give you a written notice to either move or pay rent in 30 days. If you pay the rent in 30 days, you get to stay. If you do not pay, the landlord can start an unlawful detainer action (an eviction) in General District Court (GDC). You do not have to move just because the landlord has given a written notice.

Even if the landlord starts an unlawful detainer (eviction) lawsuit in General District Court (GDC), you do not have to move just because the landlord has filed a lawsuit.

If the landlord wants to evict for a reason other than non-payment of rent, the landlord must give you a written notice saying that if the problem is not corrected within 21 days, the lease will terminate in 30 days. This notice must explain the problem or reason the landlord wants to evict. If you correct the problem in 21 days, you get to stay. If not, the landlord can start an unlawful detainer in GDC after the 30 day period.

Even if you correct the problem, if the same problem happens again, the landlord does not have to give you another 21 days to fix the problem. Instead, the landlord can simply give you a 30 day notice. In addition, if the breach of the lease cannot be corrected, then a straight 30 day notice can be sent. If you do not move by the end of the 30 days, the landlord may start an unlawful detainer in GDC after the 30 day period.

Even if the landlord starts an unlawful detainer (eviction) lawsuit in General District Court (GDC), you do not have to move just because the landlord has filed a lawsuit.

## **Are there defenses to eviction?**

One defense is that the landlord did not keep the place in good shape. To use this defense, you must be current in rent. In addition, the landlord must have been told about the problem in writing – either by you or by someone on your behalf – **before** the unlawful detainer was filed. You also must pay rent to court instead of the landlord.

Another defense is that the landlord wants to evict because you complained or used legal rights. To use this defense, the landlord must know you complained about a rental housing problem, or that you joined a tenant's group, before the unlawful detainer is filed.

## **What are the court eviction procedures?**

Your landlord can evict only by filing a lawsuit in GDC. A hearing will be held. If the judge rules in your favor, you get to stay. If the judge rules in your landlord's favor and the landlord asks, the Judge can give immediate possession and allow the landlord to get a Writ of Eviction right away. However, you cannot be evicted until your 10 day appeal period has passed. If the landlord does not ask for immediate possession, the Writ cannot be issued until the 10 day appeal period has passed. The Sheriff will provide you the Writ of Eviction, as well as at least 72 hours' notice of the date the actual eviction will occur.

Your landlord may not cut off utilities, lock you out of the rental unit, or evict you without giving notice and going to court. You don't have to move just because your landlord tells you to leave. You don't have to move even if your landlord takes out an unlawful detainer. Your landlord must wait until a court order is issued. These steps usually take more than two months from the day you get a notice to move.

If a landlord cuts off utilities, locks you out of the rental unit, or evicts you without giving notice and going to court, you have a quick remedy. Go to General District Court and file a Tenant's Petition for Relief from Unlawful Exclusion (Form DC-431). You can file this on your own, by yourself, without an attorney.

When you fill out the Tenant's Petition, you need to decide what you want the judge to do. You can ask the judge for any of these things: allow you back into possession, resume the cut off utility, end the rental agreement, and get actual damages and attorney's fees.

After filing the Tenant's Petition, the court must set a hearing date within five calendar days. The court also has the landlord served with a summons to court. If you make a reasonable effort to tell the landlord the hearing date and time, the court must hear your petition even if the landlord was not served and is not in court. If you win the case, the judge must award you damages of \$5,000 or four months' rent, whichever is greater.