CHAPTER SIX: HOUSING LAW

HOUSING DISCRIMINATION

Opinion Poll

Read the statements below and decide whether you strongly agree "SA", agree "A", are undecided "U", disagree "D", or strongly disagree "SD".

_____ 1. An owner of rental property should be able to rent to whomever s/he wishes.

_____ 2. If I want to smoke dope in my house, my landlord has no right to interfere.

_____ 3. I own a run-down house, with no heat and broken windows. A homeless family offers to rent it for $100 per month, and I agree. The building inspector now says I must make the house fit to live in. I should have the right to evict the tenants, and should not be required to fix up my house.

_____ 4. Alphretta's landlord refuses to fix her refrigerator, which broke last week. She should be allowed to withhold rent until the refrigerator is fixed.

_____ 5. Landlords should have the right to check on their tenants at any time, without giving notice, in order to ensure that the tenants are following the rules written in the lease.

_____ 6. Andre has organized the tenants in his apartment building to demand that the landlord fix the elevator, which has been broken for a month. The landlord has the right to raise Andre's rent when his lease is up next month.

_____ 7. Chen owns an apartment building, and shows an apartment for rent to Sophia. Chen decides not to rent to Sophia after he learns that she is an opera singer because he thinks she might disturb other tenants. Chen has the right to exclude Sophia just because she is an opera singer.

_____ 8. Chen then interviews Marilyn, a very attractive blonde. He refuses to rent to her either, because he has heard that blondes have lots of wild parties. Chen has a right to exclude Marilyn because she is a blonde.

_____ 9. Finally, Chen interviews William, who is infected with the AIDS virus. Chen refuses to rent to William because he has AIDS. Chen has a right to exclude William for this reason.

_____ 10. Carlos has a dog, who is very well behaved. Ellen refuses to rent to Carlos unless he gets rid of the dog. Ellen is entitled to enforce her "no pets" policy.

_____ 11. Carol has schizoid personality/depressive disorder and requires a dog to decrease episodes of depression and hospitalization. Carol notifies Ellen, the apartment manager that she needs the dog for health reasons. Ellen begins eviction proceedings, stating that no pets are allowed in her apartments. Ellen is entitled to enforce her "no pets" policy.
12. Lisa is in a wheelchair, and needs assistance to open doors at the movie theater. Her wheelchair also sometimes strikes other patrons as she goes down the aisle. The theater owner has the right to refuse to admit Lisa.

Information about opinion poll:
1. An owner of rental property should be able to rent to whomever s/he wishes.
   An owner is prohibited by anti-discrimination statutes from refusing to rent to or deal with certain classes of individuals. There are federal, state and local anti-discrimination laws. The state and local laws are often broader than the federal law. The Washington law for example, includes classes not covered by the federal Fair Housing Act. Owners are not, however, prevented from discriminating against individuals who are not covered by the law. These laws are discussed in detail later in the chapter.

2. If I want to smoke dope in my house, my landlord has no right to interfere. Washington has a law that allows landlords to evict tenants for "drug-related activity," which includes the use of any illicit drug on the premises. If drugs are being manufactured, stored or sold on the premises, with the landlord's knowledge, the police may have the right to confiscate and sell the house.

3. I own a run-down house, with no heat and broken windows. A homeless family offers to rent it for $100 per month, and I agree. The building inspector now says I must make the house fit to live in. I should have the right to evict the tenants, and should not be required to fix up my house.
   The Washington Residential Landlord-Tenant Act requires all landlords to maintain leased property in accordance with local housing codes. If a landlord knowingly rents property that is in violation of local housing codes, or that has been condemned, the tenant is entitled to recover either three month's rent or three times the damages sustained as a result of the violation.

4. Alphretta's landlord refuses to fix her refrigerator, which broke last week. She should be allowed to withhold rent until the refrigerator is fixed.
   Washington law does not allow rent withholding, but does give tenants other alternatives to pressure landlords to make repairs. Under the Landlord-Tenant Act, the landlord is required to fix the refrigerator within 72 hours after notification of the problem. If he does not fix it within that time, she may either move out, repair and deduct the cost of the repair from her rent, or deposit her rent in escrow. These remedies are discussed later in the chapter.

5. Landlords should have the right to check on their tenants at any time, without giving notice, in order to ensure that the tenants are following the rules written in the lease.
Washington law guarantees that tenants are entitled to privacy, and that landlords may not enter the leased property without giving two days notice, unless there is an emergency. Only one days' notice is necessary if the landlord is showing the apartment to a prospective tenant or purchaser.

6. Andre has organized the tenants in his apartment building to demand that the landlord fix the elevator, which has been broken for a month. The landlord has the right to raise Andre's rent when his lease is up next month. Washington law protects tenants from retaliation by a landlord. Since Andre is engaged in activity permitted by the law (requesting that the landlord maintain common areas which the landlord is obligated to do anyway), he should not be punished by the landlord. State law provides that if the landlord raises the rent, or evicts a tenant within 90 days after the tenant exercises a right guaranteed by the law, the landlord is deemed to be acting in retaliation.

7. Chen owns an apartment building, and shows an apartment for rent to Denise. Chen decides not to rent to Denise after he learns that she is an opera singer because he thinks she might disturb other tenants. Chen has the right to exclude Denise just because she is an opera singer. Since opera singers are not a protected class under any of the anti-discrimination laws, Chen can probably exclude Denise, since she might actually disturb tenants. This example and the next are included to point out that the laws prohibit discrimination against only those groups, or classes of individuals, specifically mentioned in the statute.

8. Chen then interviews Marilyn, a very attractive blonde. He refuses to rent to her either, because he has heard that blondes have lots of wild parties. Chen has a right to exclude Marilyn because she is a blonde. Again, the anti-discrimination laws do not prohibit discrimination against blondes. The laws do, however, prohibit discrimination on the basis of sex, so if Marilyn can show that Chen would have rented to a blonde man, she might have a case. Also, assuming that Chen is an Asian, this may implicate race discrimination issues as well.

9. Finally, Chen interviews William, who is infected with the AIDS virus. Chen refuses to rent to William because he has AIDS. Chen has a right to exclude William for this reason. Chen is barred by both the federal and state fair housing laws from discriminating against William because he has AIDS. Those who have AIDS or are HIV positive are included under the definition of "handicapped."

10. Carlos has a dog, who is very well behaved. Ellen refuses to rent to Carlos unless he gets rid of the dog. Ellen is entitled to enforce her "no pets"
policy.
A landlord is free to exclude pets, unless it is a guide dog for a handicapped person.

11. Carol has schizoid personality/depressive disorder and requires a dog to decrease episodes of depression and hospitalization. Carol notifies Ellen, the apartment manager that she needs the dog for health reasons. Ellen begins eviction proceedings, stating that no pets are allowed in her apartments. Ellen is entitled to enforce her "no pets" policy.
   This fact pattern is based on a 1994 case. The court held that the manager was required to accommodate Carol's disability due to her health needs for the dog. HUD v. Riverbay Corp.

12. Lisa is in a wheelchair, and needs assistance to open doors at the movie theater. Her wheelchair also sometimes strikes other patrons as she goes down the aisle. The theater owner has the right to refuse to admit Lisa.
   This example is based on a case in Tacoma. The hearing examiner ruled that the theater had unfairly discriminated against Lisa, and violated Tacoma's human-rights ordinance by treating her differently from other customers.

**Washington State Law**
Washington has a state anti-discrimination law, RCW 49.60.030. This law prohibits discrimination in housing on the basis of sex, marital status, race, creed, color, national origin, the presence of any sensory, mental, or physical handicap, or the use of a trained guide dog by a blind or deaf person.

Washington law makes these actions illegal if they are applied to a person in one of the classes listed above:

1. Refuse to engage in a real estate transaction with a person;
2. Discriminate in the terms, conditions, or privileges of a real estate transaction;
3. Refuse to receive or fail to transmit an offer to engage in a real estate transaction with a person;
4. Refuse to negotiate with a person;
5. Represent that property is not available when in fact it is available or fail to bring a property listing to a person's attention;
6. Advertise in a way that reveals, directly or indirectly, an intent to discriminate;
7. Expel a person from occupancy because the person is of one of the above classes;
8. Discriminate in the negotiation of a loan or mortgage.

Is Washington's law broader or narrower than the federal law? Explain your answer.
Local Law
Several cities in Washington have enacted fair housing ordinances, including Seattle, Bellevue, Tacoma, and Spokane. These local laws apply only to housing within the city that passed them. The Seattle ordinance prohibits discrimination in housing in Seattle based on race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, political ideology, the presence of any sensory, mental or physical handicap or the use of a trained guide or service dog by a handicapped person. The Tacoma ordinance is similar, and prohibits discrimination on the basis of race, color, national origin, religion, sex, marital status, parental status, age, handicap or sexual preference.

As you can see from a comparison of the federal, state and local laws, the Seattle and Tacoma ordinances are the most far-reaching.

Question: Why would Seattle and Tacoma have the broadest ordinances? What does this say about lawmaking?

The Seattle and Tacoma laws make it illegal to discriminate in housing on the basis of age, sexual orientation, and political ideology, in addition to the other protected classes. These ordinances, of course, only apply to property owners in the cities of Seattle and Tacoma, while the state law applies throughout Washington, and the federal law to all states and the District of Columbia.

Complaints about violations of the Federal Fair Housing Act are handled by the Housing and Urban Development Fair Housing Office. HUD has offices in Seattle and Spokane. The Seattle office is at 909 1st Ave., Suite 190, Seattle, 98104, and the telephone number 206-220-5175.

Complaints about discrimination in housing under state law may be filed with the Washington State Human Rights Commission, which has offices in Olympia, Spokane, Seattle and Yakima. There is a statewide toll-free Housing Hotline that you can call if you suspect that someone has discriminated against you in your search for housing. That toll free number is 1-800-233-3247 or 1-800-605-7324.

The Washington State Human Rights Commission, as the agency responsible for enforcing the anti-discrimination laws, conducts "testing" around the state to determine the extent of discrimination in housing. Testers are usually volunteers, who are assigned roles as individuals seeking housing. For example, a black tester might contact a landlord and be turned away. A white tester would then contact the same landlord, and would give the same information, if asked, about income, employment and length of time in the community. In a recent testing program in Spokane, the Commission found that in almost half of the contacts, minorities were told that housing was not available when, in fact, it was available, or were otherwise discriminated against.
Some cities also have Human Rights Commissions, so if you think someone has violated a city ordinance, you should contact that city’s human rights department.

RENTING A HOME

The Lease
In Washington, under a month-to-month lease, notice to terminate the lease can be given 20 days before the end of the rental period, rather than 30 days.

Look at the Lease
Ask students to compare the lease in the national text with a typical lease from Washington. How do they differ? After reading both leases, answer the following questions.

1. Tom rents an apartment on January 1, and everything appears to be fine. A few days later, as the temperature outside drops to below freezing, the furnace breaks, and Tom has no heat. What would happen under the lease printed in the national text? What about under the Washington lease?

2. Karl rents an apartment from Stu, who has a habit of dropping by unannounced, to "inspect" the apartment, once or twice a week. What can Karl do about this under the lease in the national text? Under the Washington lease?

3. Sue’s landlord sues her for deducting the cost of necessary repairs from her rent. Sue wins. Who would be responsible for attorney’s fees under the lease in the national text? Under the Washington lease?

RIGHTS AND DUTIES OF LANDLORDS AND TENANTS

Relations between landlords and tenants in Washington are governed by a state law, the Residential Landlord-Tenant Act, found at Title 59 of the Revised Code of Washington. The Act applies to almost all tenants who rent a place to live within Washington State, including persons who rent mobile homes.

The law does not apply to renters of a space only in a mobile home park, tenants who are using the property for commercial purposes, residents of housing provided for seasonal farmwork, residents of hotels and motels, and residents of medical, religious, educational, recreational or correctional institutions. Leases of a year or more are not covered by the law if the tenants’ attorney has approved of this.

Washington law defines the rights and responsibilities of tenants and landlords. Landlords are required to comply with health and safety codes, and to control pests both at the beginning of the tenancy, and during the tenancy, except in single family houses. The landlord must also provide adequate locks, and maintain all electrical, plumbing, heating, and appliances in reasonably good
In apartment buildings, the landlord must keep common areas, such as stairways and halls, reasonably clean and safe, and maintain the individual units in the same condition that they were in when the tenant moved in, except for reasonable wear and tear. Problems caused by the tenants are not the landlord's responsibility. The tenant is responsible for paying rent, keeping the unit clean, disposing of garbage properly, operating appliances and other systems properly, such as heating and plumbing, and not intentionally damaging the property.

**Paying the Rent**
Washington law also clearly states that the tenant is responsible for paying rent on time. In certain situations discussed later, a tenant may not be required to pay the full rental amount but these situations are rare.

**Raising the Rent**
Washington law does not talk about escalation clauses, which are provisions that allow automatic increases in the rent during the time of the lease. They are probably legal and enforceable if they are made a part of the lease agreement. Otherwise, a landlord may not raise the rent during the rental period covered by the lease agreement. With a month-to-month tenancy, the landlord must give written notice of an increase in rent at least 30 days prior to the date of the increase, which must be the date that rent is due. There is no limit on how much rent may be increased, or how often the rent may be raised.

Washington does not permit rent control. Rent control is an arrangement in which the government controls the amount of money that can be charged as rent for rental units and limits the ability of the landlord to raise the rent. A specific state statute forbids any county, city or town in Washington to pass rent control laws.

**Quiet Enjoyment**
The covenant of quiet enjoyment is implied in every lease agreement. This means that the right exists even if it is not written into the lease. Quiet enjoyment means that the tenant is entitled to exclusive possession of the leased premises, and that the landlord will not interfere with that possession. "Interference" by the landlord can mean either that the landlord actually prevents the tenant from taking possession of the property, such as by locking her out, or by leaving boxes or furniture in a room of the house, so the tenant cannot use that room. Interference could also mean that someone else, acting on behalf of the landlord, interferes with the tenant's possession. Persons acting on behalf of the landlord must be acting either at the landlord's request, or with his or her approval, expressibly or impliedly.

**Upkeep and Repairs**
Washington courts have long ruled that a warranty of habitability is implied in
every residential lease agreement. See, Foisy v. Wyman, 515 P.2d 160 (Wash. 1973). This means that every rental unit must meet a basic standard of fitness. Landlord and tenant cannot agree to allow an unfit apartment or house to be rented for persons to live in. Washington law requires landlords to maintain the leased premises in reasonably good condition, including electrical, plumbing, heating and appliances supplied by the landlord. The law also requires landlords to control infestations by rodents, insects and other pests, unless the problem was caused by the tenant.

Landlords must also keep buildings that they lease as residences maintained in accordance with the local housing code so that no conditions exist that would endanger the health or safety of the tenant. It is unlawful for a landlord to rent property that has been condemned or is unfit for habitation. If a landlord knowingly violates this law, the tenant may recover from the landlord three times the monthly rent, or three times the actual damages caused by the violation, whichever is greater, plus attorney's fees.

Most cities and towns in Washington have enacted housing codes, which are based on the Uniform Building Code used throughout the United States. The Uniform Code contains requirements similar to those listed in the national text. The Uniform Code also specifically sets forth the duties of owners and tenants. These duties are imposed regardless of what the lease agreement may say.

Examples of landlords' duties include removing all garbage from the property (unless it is a single family dwelling), maintaining the property in a safe condition, including heat, installing smoke detectors, and maintaining the yard of all buildings with two or more units. Examples of tenants' duties include keeping their living quarters clean, repairing any damage caused by the tenants or their guests, and cooperating with the owner.

Of course, before a landlord is responsible for repairs, the tenant must notify the landlord that something needs fixing. Washington law states that notice of needed repairs must be in writing, and must include the address and apartment number of the property and a description of the problem. Revisions to the landlord-tenant act that went into effect August 1, 1989 specify waiting periods allowed for the landlord to begin making repairs. Unless circumstances are beyond the landlord's control, s/he must begin within 24 hours to fix a hazardous condition, or if the tenant does not have hot or cold water, heat, or electricity. The landlord is allowed 72 hours to repair a refrigerator, range and oven, or a major plumbing fixture. Other problems, such as broken windows, locks, and doors must be repaired within 10 days.

Violations of the Building Code are enforced by a city officer, who has authority to inspect any building which s/he has reason to believe may be in violation of the Code.
As a practical matter, the enforcement of housing code violations varies depending on which city or town you are in. In some cases, violations of the housing code may be reported and are not acted on for months, or even years. In cases where tenants have organized, or sought media attention for their problems, action is taken more promptly.

**Use of the Property**

Washington law was amended in 1988 to allow owners to evict tenants who are engaged in or allow anyone else to engage in drug-related activity. RCW 59.18.030. This includes the use, sale or manufacture of drugs on the rental premises. It is also a crime for a landlord to knowingly rent to someone who is engaged in the sale or manufacture of drugs.

Police departments have the right to confiscate and sell houses, condos, and other buildings if they are being used for the manufacturing, storage or production of illegal drugs. Under earlier laws, police only had the power to seize cars, money and equipment used in drug trafficking. They also had the authority to "abate" certain homes where it could be shown drug sales are occurring. That process only shuts down the use of the house for up to a year.

In order to be able to seize the real estate or building for sale, there must be a substantial connection between the commercial production or sale of the controlled substance and the property. The owner of the property must know of or consent to the drug operation before the property is subject to forfeiture.

In 1998, the law was amended again to include eviction of persons who are found to be involved in gang-related activity. RCW 59.18.500, 59.18.510.

**Security Deposits**

The Washington landlord-tenant law also has detailed requirements about security deposits. RCW 59.18.270, 59.18.280. Security deposits and fees may be either refundable or nonrefundable. If the payment is called a "deposit," it must be refunded. A non-refundable payment might be called a "cleaning fee," for example, and would not be returned to the tenant at the end of the lease. The law does not limit the amount a landlord may charge for a security deposit or fee.

If a security deposit is collected from the tenant, the lease agreement must be in writing and must state under what conditions the landlord may keep all or any part of the money when the lease term is over. The landlord must make a detailed checklist at the beginning of the lease, stating the condition of the floors, walls, drapes, carpets, appliances, and any furniture in the house or apartment. Both landlord and tenant are to sign the list. When the tenant moves out, the landlord will refer to the list to determine if the apartment is in good condition, excluding normal wear and tear.
The landlord is required to deposit the money in a trust account, to give the tenant a receipt, and to notify the tenant in which bank the money is held. The law does not require the landlord to pay the interest to the tenant.

Within fourteen days after the termination of the rental agreement and after the tenant has moved out, the landlord must refund the entire security deposit or give a specific statement why a portion of the money is being withheld. If the landlord fails to refund the deposit or give a statement within fourteen days, s/he is liable to the tenant for the full refund, even if there was damage to the apartment or house.

Landlords will also often ask for "last month's rent" at the beginning of the lease term. If the money is paid as "security" for the last month's rent, the landlord is required to treat the money as part of the security deposit, and place it in a trust account with the rest of the deposit. If the amount is prepayment of the last month's rent, the landlord can spend it however s/he wishes. To determine which situation exists, discuss it with the landlord, or examine the lease agreement.

If the tenant moves out owing rent to the landlord and leaves property behind, the landlord can take possession of the tenant's property. The landlord must send notice to the tenant, and inform him or her that the property will be sold to satisfy the rent. The tenant must be informed of her right to have the property returned prior to the sale. Then, in 45 days, the landlord may sell the property if the tenant has not claimed it and paid the rent due. If the property is worth $50 or less, the landlord can sell it after seven days notice, except personal papers, family pictures, and keepsakes. These personal items may not be sold until 45 days after the tenant has been notified by mail.

**Who Gets the Security Deposit?**

Kim owns an apartment building. Lorene rented a studio apartment for $150 per month, beginning in September, 1999. They sign a lease identical to the one in the book. Lorene gives Kim $300 as a security deposit. She does not ask for, nor does Kim give her a checklist stating the condition of the apartment when Lorene moves in.

Lorene notifies Kim that she plans to move out on November 1, 2000, and Kim manages to rent the apartment again starting December 1. After Lorene leaves, Kim has his resident manager inspect the apartment. There are large rust stains on the carpet in the living room, possibly left by potted plants, and cigarette burns on the carpet in the sleeping area. There are picture hooks on the walls, which, when removed, leave large holes. Also, the manager finds two suitcases of Lorene's clothes, a lamp, and some dishes.

Kim determines that the entire apartment must be recarpeted. Since the original
carpet has been discontinued, he cannot replace sections of it. The cost to recarpet is $300. On November 16, Kim notifies Lorene that he will charge her $5 for each day that her belongings remain in the apartment. Lorene writes Kim a letter from her new town and tells him that the carpet was already stained, and while she might be responsible for the cigarette burns, she certainly should not be responsible for recarpeting the entire apartment. Lorene also writes that the items left in the apartment are trash, and that she left the key in the apartment mailbox in an envelope with Kim's name on it. She assumed that Kim had a key to her mailbox.

Work in small groups. One group should be assigned to represent Kim, another group assigned to represent Lorene, and three students to act as judges. A spokesperson from each group should make arguments to the judges and the judges should decide whether Lorene should receive her security deposit back, whether it is reasonable to replace the entire carpet, and whether Kim can charge Lorene for the days her things remain in the apartment.

Responsibility for Injuries in the Building
Washington law specifically prohibits clauses that release the landlord from all liability for injuries or damages to tenants or guests, regardless of cause. Even if such a clause appeared in a lease that the tenant and landlord signed, the courts in Washington would not enforce it.

Tenants may sue landlords for injuries to themselves, their guests, and property if they can show that the injuries occurred as a result of a hazardous condition that existed at the beginning of the lease, and was not obvious. For example, if the supports under the floor had been partially burned in a fire and not replaced and the floor caved in after new tenants had moved in, the landlord would be responsible for any injuries.

The tenant must establish that the landlord knew of the condition that caused the injury. If a tenant notifies the landlord of a dangerous condition, such as a loose stair railing, or exposed wires, and the landlord does not fix the problem, the landlord will be liable if the tenant is injured.

Landlord Access and Inspection
Washington law states that landlords must get the consent of the tenant before entering a tenant's apartment or house. Tenants, of course, may not withhold consent unreasonably. Landlords must also give tenants two days notice before entering, unless there is an emergency. If the landlord needs to show the building or apartment to prospective tenants or purchasers, only one days' notice is required. If there is an emergency or if the tenant moves out without notifying the landlord, the landlord may enter without the required consent.

If the landlord or tenant violates this law, after being served with a notice listing the dates of the violations, s/he will be liable for up to $100 for each violation.
Rules and Regulations
Under Washington law, tenants have a duty to comply with all reasonable rules or restrictions as long as they are brought to the tenant's attention at the time of rental and are contained in the lease agreement. For example, if tenants are told that no pets are permitted and a no pet clause is written in the lease, tenants will not be allowed to keep pets on the premises.

Sublease of a House or Apartment
Subleasing is not covered by the Washington statute. If the lease allows the tenant to sublet, s/he will generally be required to obtain the written permission of the landlord. In Washington, the landlord may withhold consent for any reason, or no reason at all, unless the lease states that the consent may not be unreasonably withheld. This is a point that tenants could negotiate with their landlords about, and attempt to include in their lease a clause stating that consent for subleasing may not be unreasonably withheld.

LANDLORD-TENANT PROBLEMS

What Tenants Can Do When Things Go Wrong
Complaints to the Landlord. The Washington law requires tenants to notify landlords in writing of any needed repairs which are the responsibility of the landlord to fix as established by Washington law or the lease agreement. The landlord then is responsible to make any necessary repairs within the times set out in the law.

If the landlord fails to make the repairs, the tenant may take advantage of the remedies discussed under "Rent Withholding" below.

Complaints to Government Agencies. In Washington, all cities and towns have building inspectors who will handle complaints about conditions in violation of the local housing code.

Under the Washington Drug Nuisance Statute, a city may take action against the owner of a building when drug activity becomes a serious problem. The city may either close down the building, or take over the management of the building to control drug activity. RCW 69.50.505.

The local police department may also have the right to confiscate and sell houses and other buildings that are being used for the manufacturing, storage or production of illegal drugs.

Tenant Organizing. Tenants' rights groups can be a very effective way to get landlords to take action. The Tenants' Union handles calls from around the state regarding landlord-tenant disputes. The Union assists tenants in organizing, usually if there are three or more tenants that share a problem. By organizing,
tenants can have more influence than if they acted individually, and exert pressure on landlords that ignore complaints and requests to make repairs. The Union is a good source of information about landlord-tenant issues in Washington. Their address is 3902 S. Ferdinand St., Seattle, WA 98118 and their number is 206-723-0500. Their website is http://www.tenantsunion.org.

Rent Withholding. If a landlord fails to make necessary repairs after the tenant had made a request in writing, the tenant may not withhold rent. The law does give the tenant several options, but these options are only available if the tenant has paid rent.

If repairs are not made within the required number of days, the tenant can move out immediately, after giving written notice to the landlord. The tenant is then no longer obligated to pay rent for the rest of the term of the lease, and is entitled to the return of all deposits (unless the property is damaged by the tenant) and a prorated refund of any rent for time that the tenant did not live in the rented premises.

For example, in the third month of a year-long lease, the landlord does not supply the tenant hot water within 24 hours after the tenant gives written notice that there is no hot water. The tenant then gives written notice to the landlord that he is leaving the apartment due to the lack of hot water. The tenant leaves the apartment on the 15th of the month. The tenant is free from any obligation to pay rent for the remainder of the year, is entitled to a full refund of all deposits (unless he had damaged the apartment), and is entitled to a refund of half of the rent for the month when the tenant left the apartment.

The tenant can bring an action in court, or for arbitration if the landlord agrees, to force the landlord to make the repairs. The action must be brought in Superior Court, where an attorney is not required, but recommended. The Small Claims Court can only handle cases to recover money. For example, tenant could sue a landlord to recover a security deposit in Small Claims Court if the amount is less than $4500. To force the landlord to make repairs, however, the tenant must file in Superior Court, where the judge has the authority to order the landlord to take action.

The tenant can hire someone to make the repairs and deduct the amount from the rent. There are specific rules relating to this remedy, which you should consult if you are considering this choice. The Attorney General's office brochure on the Landlord-Tenant Law gives this information, or it can be accessed through their website, http://www.wa.gov/ago/consumer/lt. One can also consult a tenant's group.

The tenant may not deduct more than two month's rent in one twelve month period. The tenant may make the repairs herself, and deduct the cost from the rent. The cost of the repairs may not be more than half-a-month's rent. No more
than one month’s rent may be subtracted for repairs within a twelve month period. The landlord is entitled to inspect to see that the repairs were done properly.

The tenant may deposit the rent money in "escrow" if very serious and dangerous conditions exist on the property. "Escrow" means that the tenant pays the money to a third party, such as a bank, attorney or the Clerk of Court of the county. That person then holds the money until the dispute between the landlord and tenant is resolved.

To make use of this remedy, which requires the tenant to pay the rent, but prevents the landlord from receiving it, the property must "substantially endanger the health or safety of the tenant." Examples would be no heat or water, structural weaknesses in the building, bad wiring or fire hazards.

The tenant must notify the landlord of the deposit of rent into the escrow account. If the landlord makes the repairs, the money is turned over to him or her upon completion. If the landlord wishes to dispute that the dangerous conditions exist, s/he may file a court action for release of the rent money held in escrow.

Suing the Landlord. As stated above, the tenant may sue the landlord if the landlord fails to make repairs within the statutory timelines. Arbitration or mediation, if the landlord will agree, may be much quicker and less costly.

Moving Out. Washington courts recognize the right of the tenant to move out when the rental property has not been repaired after the proper notices were given. This is called the doctrine of constructive eviction. In order to claim a constructive eviction, the tenant must actually move out of the property.

What Landlords Can Do When Things Go Wrong

Ending the Lease

Unless the lease states otherwise, no notice is necessary if the tenant moves out at the end of the term of the lease. If the tenant stays on after the term set out in the lease, s/he is considered to be renting under a month-to-month agreement.

If the tenant wants to move before the end of the lease term, s/he must either get a release from the landlord or permission from the landlord to sublet the apartment. If the tenant does neither of these, s/he could be liable to the landlord for the rent due for the entire remainder of the lease. Thus, if Leroy rents an apartment for twelve months, and moves out after five months, the landlord can make Leroy pay for the remaining seven months' rent. The law, however, requires the owner to make a good faith effort to re-rent the apartment as soon as possible.

If the apartment is rented to another person, Leroy would only have to pay for the time before the new lease started. If the landlord cannot rent the place for the
same rent that Leroy paid, Leroy would have to pay for the difference for the remaining seven months. Leroy would also be responsible for the landlord's costs in advertising the apartment, and any other costs in finding a new tenant. As you can see, it can be costly to move out before your lease has expired.

For month-to-month rentals in Washington, either the tenant or the landlord can end the lease by giving the other party 20 days notice. The notice must be received at least 20 days before the end of the rental period (the day before the rent is due).

**Eviction**

In Washington, the eviction process is called an "unlawful detainer action." A landlord may evict a tenant for many different reasons, including not paying rent, seriously damaging the property (called "waste"), creating a nuisance (interfering with other tenants' use and enjoyment of the property), or conducting an illegal business on the property, including drug-related or gang-related activity.

If the tenant is not complying with a rule in the lease, such as no pets, the landlord must give notice of the violation. The tenant then has ten days to comply, and if the problem is corrected, the eviction cannot go forward. In all cities in Washington except Seattle, which has a special "Just Cause Eviction Ordinance," the landlord may evict a tenant on a month-to-month lease for no reason at all. In Seattle, the landlord must have a valid reason to evict a tenant on a month-to-month lease.

**Landlord-Tenant Court Process**

A landlord must give notice to the tenant when the tenant has failed to pay rent on time. After receiving a notice for nonpayment of rent, the rent must be paid within three days or the tenant must move out. For creating a nuisance or waste, or conducting illegal activity, the landlord can give notice that the tenant must move out in three days.

Assuming the tenant does not move out after receiving a notice, or does not pay rent, the landlord actually starts the unlawful detainer action by either filing or serving the tenant with a summons and complaint. The complaint sets out the history between the tenant and landlord, citing the facts that merit eviction, and sets out what the landlord wishes, that is, to get the tenant out. The summons calls for the tenant to make an answer within a certain number of days, usually seven, and gives the exact date and time that the answer must be filed by, and where to file it. The answer presents the tenant's side of the dispute, and sets out any defenses the tenant may have to the landlord's claim. An example of a defense would be that the landlord breached the warranty of habitability by not maintaining the apartment in a safe manner.

The tenant may also be served with an order to show cause, requiring him or her to appear in superior court. The judge will determine whether the tenant has a
defense to the action. An example of a defense would be that the rent has already been paid or the tenant did not pay rent because s/he used the money to make necessary repairs to the apartment.

After the show cause hearing, the judge may decide that the tenant should be evicted, and order the sheriff to go ahead and evict. If the judge decides that the tenant has a reasonable defense, the judge may order a trial to decide factual disputes. An example of a factual dispute would be if the landlord states that the apartment has been damaged by the tenant and the tenant claims the problem existed at the time the tenant moved in.

If the tenant wants a trial by jury, the tenant must request it in writing, before the judge sets a trial date. The tenant must pay a $25 jury fee for a jury of six and $50 for a jury of twelve. The judge may waive (not require) the jury fee if the tenant cannot afford it. Since the wait for a trial date can often be a year or more, the court will make a special exception if the tenant is still living in the apartment and set the trial within 30 days.

In cases where the court orders the tenant to be evicted, either after a trial or because the tenant did not answer the summons and complaint or appear in court, the court clerk issues a writ of restitution. This writ instructs the county sheriff to remove the tenant and any possessions from the property. Within three to seven days, the sheriff will act on the writ. The tenant's furniture and other property is usually placed on the sidewalk, if the tenant refuses to make arrangements to move it.

Retaliatory Evictions
It is illegal in Washington for landlords to evict tenants or otherwise retaliate against tenants for exercising their legal rights, such as complaining to the building inspector or other authorities about unsafe conditions, deducting the cost of making repairs from the rent, or organizing other tenants to complain about problems.

Examples of retaliation are raising the rent, treating the activist tenant differently by denying the tenant services provided to other tenants, or eviction. If the landlord does any of these three things, the court will assume it is retaliatory if it occurs within 90 days after the tenant's action.

If a landlord retaliates against a tenant, the landlord will be responsible for attorney's fees and costs in any action brought to evict the tenant or enforce the retaliatory action.
Mediation and Landlord-Tenant Disputes
Mediation is usually an excellent way to resolve landlord-tenant disputes. Most counties in Washington have Dispute Resolution Centers (DRCs) that use volunteer mediators to assist landlord and tenants in resolving disputes themselves.