

Attention Residential Landlords: Have You Updated Your Leases and Leasing Processes?

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It has been nearly five months since a number of significant changes to Wisconsin's landlord/tenant law went into effect. Yet, Landlords are failing to take advantage of many of the changes by updating their forms and processes. The following is a quick summary of some of the changes that went into effect April 18, 2018.

New Legal Framework for Assistance Animals and Emotional Support Animals

The law now addresses "Animals That Do Work or Perform Tasks for Persons with Disabilities" and "Emotional Support Animals". Animals that do work or perform tasks are generally referred to as "Assistance Animals" and Landlords cannot prohibit or discriminate against a Tenant that keeps an Assistance Animal provided that the Tenant can provide reliable documentation that the Tenant has a disability (unless the disability related need is apparent or known) and documentation of the disability related need for the Assistance Animal. Tenants that keep an Assistance Animal are responsible for damage to the premises caused by the Animal and it is highly recommended that the Landlord have the Tenant sign an Assistance Animal Agreement.

Emotional Support Animals are not required to be trained for any specific purpose and can be any type of animal. Similarly to Assistance Animals, the Landlord can request documentation that the Tenant has a disability and that there is a disability related need for the Emotional Support Animal. Assuming the documentation can be provided by the Tenant, then the Landlord cannot refuse to rent or otherwise discriminate against the Tenant.

It should be noted that Landlords still must comply with other applicable state and federal fair housing and discrimination laws as the terms described herein are based on the requirements of Chapter 704 of the Wisconsin Statutes only.

Charging for Landlord's Time and Materials

The law makes it clear that the "reasonable costs" that can be recovered by a Landlord include the materials and labor provided by the Landlord including time the Landlord spends purchasing or providing materials, hiring a contractor, and supervising. Some courts may still be reluctant to reimburse Landlords for some of this time so it is very important that the Lease be updated to include these costs and set forth a reasonable hourly rate that is agreed to by the Tenant.

Credit and Background Checks

The maximum amount that can be charged by a Landlord for a credit check was increased by \$5.00. The Landlord can now charge the lesser of the actual cost of the credit check or \$25.00. In addition, a Landlord may require an applicant who is not a resident of Wisconsin to pay the Landlord's actual costs up to \$25 to obtain a background check. Please note that a Landlord cannot charge a Wisconsin resident for a background check.

Electronic Delivery of Documents and Information

For Leases or renewals entered into after April 18, 2018, the Lease may include provisions that allow a Landlord to provide information via electronic means including the accounting and disposition of the security deposit and security deposit refund, copies of the rental agreement, and notices to enter the premises. It will be important that Landlords enter into new leases at the time of renewal to include language regarding the electronic delivery of this information.

Late Fees are Rent

The law makes it clear that rent includes late fees and late fees can now be included in default notices to the Tenant. This provision applies to rental agreements entered into or renewed as of April 18, 2018. Therefore, it is important for Landlords to paper renewals that occur after that date.

Contested Evictions

For a Tenant to ask for an eviction hearing before a judge, the Tenant must now raise a valid legal ground for the contest. Under the prior law, the Tenant could get a hearing even if the Tenant could not articulate a valid defense. Further, proof of certified mailing from the U.S. Post Office is sufficient for any notice terminating a tenancy that is delivered via certified mail.

The laws governing residential landlord/tenant relationships have been subject to significant change over the last few years. In a manner similar to the other recent changes, the 2018 changes require that Landlords update their lease forms and processes in order to comply with the law and ensure that they get the full benefit of the changes that were made.

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