



A Lawyer's Midnight Meanderings: House Rules, Safety Laws & Training..

By Neil S. Shankman

With the deadline for MAOMA's quarterly article knocking at my door, my Paralegal and I reviewed dozens of pressing issues that needed to be addressed. We have chosen three.

House Rules

Maine law does not require a landlord to have House Rules. In fact, the law does not even require a written lease. We, on the other hand, encourage our clients to have both a binding written lease and updated, clear and definitive House Rules. The lease is a contract between the landlord and the tenant which binds the parties to specific terms and conditions. It establishes who can reside in the premises; the duration of the tenancy (long-term versus month-to-month); the rental amount; the responsibility for utilities and basic services; standards for behavior; responsibility for different aspects for maintaining the premises; handling of security deposits; and consequences of breaching the lease (eviction).

Unlike leases, which can only be modified by written agreement of the landlord and tenant, House Rules can be more flexible with changes being made on as little as thirty (30) days' notice. It is with your House Rules that you deal with details about behavior by tenants and their guests; specific expectations regarding appliances and furnishings; general care of the unit; limitations on improvements; storage; parking; trash removal and recycling; keys; locks and replacement; absence from the unit; and general courtesy issues.

If your lease provides for House Rules to be changed over time, the only concern is that you give "reasonable" notice to the tenants prior to any "reasonable" changes in the rules.

Many landlords like to have everything in a single document. This is totally legal and appropriate. The advantage to using House Rules is the flexibility it gives you during the term of the tenancy. There is not a landlord who has been in the business for long who is not aware that on a fairly regular basis something new comes up and needs to be addressed. This is how to deal with it. If you have not had your House Rules reviewed and updated lately, you are overdue.

Safety Laws

In the fourth quarter MAOMA newsletter that was distributed in December of 2009, we provided a detailed explanation of changes in the law involving carbon monoxide detectors, smoke detectors and radon testing. Please, please, please review that article. If you need another copy of it, please contact MAOMA or this office. We are more than happy to help.

The issue of implementation of the new safety laws recently came to our attention once again. On February 11, 2010 the Lewiston Sun Journal published an article about these issues. The basic concern is that many landlords may not be aware of the new requirements and the consequences of ignoring them.

The carbon monoxide detector law can be viewed at Title 25, §2468 of the Maine Revised Statutes Annotated. The smoke detector statute can be viewed at Title 25, §2464 of the Maine Revised Statutes Annotated. The Commissioner of Public Safety has been instructed to adopt rules to implement both of these new laws. Preliminary guidance is available on line at www.mainechief.com/documents/pl162.pdf. When final rules are adopted, they will be available at www.maine.gov/dps/fmo/laws/rules.html.

The radon statute can be viewed at Title 14, §6030-D of the Maine Revised Statutes Annotated. Note that the testing requirement goes into effect in the year 2012. At the point of implementation, radon tests will have to be conducted by a person who is registered with the Department of Health & Human Services. Any identified problems of unhealthy levels of radon will have to be addressed through mitigation services that must be provided by a person registered with the Department of Health & Human Services.

Training

We have recently published the revised edition of our book “Maine Landlord-Tenant Statutes & Commentaries”. We have included updated analyses and case references on all State statutes relating to landlord-tenant relations. We have paid particular attention to the various substantive changes that have occurred within the last two years. When emergency situations arise, you may not be able to contact your lawyer immediately. It is very important for you to have knowledge of the laws when dealing with your tenants and, quite frankly, when dealing with your lawyer. You need to understand the law in order to be able to ask the right questions and get the desired results. To order a copy of the book, please send us the Order Form that is included in this newsletter or contact Karen Cook at our Lewiston office.


Even more important, please put on your calendar that we are doing a full-day seminar on Landlord-Tenant Process & Procedures on April 9, 2010 at the Ramada Inn in Lewiston. This seminar will include the most comprehensive and hands-on practical book that we have ever published. MAOMA members will be eligible for a 25% fee discount. If you are not sure that you are on our mailing list, please contact Karen Cook at kcook@shankmanlegal.com or call her at 786-0311.



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