

# Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas



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## Landlord Handbook and Rights - Responsibilities

The attached handbook spells out your rights and responsibilities as a landlord in Kansas. It also includes information on how to evict a tenant, including the specific legal process for doing so.

This handbook was prepared by Housing and Credit Counseling, Inc., (HCCI) and is the 2007 version, **free here for download**. Most of the information is still up-to-date, but the HCCI website has newer versions **available for download for a fee**.

The following information is taken from the attached landlord handbook.

### **KANSAS LAW**

If a place you are renting out is not in compliance with state law and the rental agreement at the time tenants are to move in, Kansas law says that the tenants have the right to give you a written five-day notice (doesn't say from when or to when), move out, and get all of their money back. If an unacceptable condition is deemed willful and not in good faith, a tenant can even get 1-1/2 times the rent or 1-1/2 times his or her cash losses, whichever is greater.

In *Steele v. Latimer* (Warranty of Habitability), a 1974 Kansas Supreme Court decision, a Wichita woman and her five children were awarded the refund of a substantial amount of back rent in an eviction case because the landlord had knowingly not made needed repairs. Since then, citing this case and provisions of the **Kansas Residential Landlord and Tenant Act**, many tenants have successfully defended themselves and won counterclaims based on the "implied warranty of habitability" that all landlords in Kansas are expected to provide places that are basically decent, safe and sound.

Specifically, you are required to:

- Keep your rental unit in compliance with city or county building or housing codes.
- Maintain areas of the building and the grounds outside which are open to all tenants. Common areas such as hallways, parking lots, stairways, sidewalks, and laundry rooms are a few examples.
- Make sure there is an adequate supply of hot and cold running water.
- Supply heating facilities capable of maintaining adequate room temperatures.

- Check local housing and building codes, if you have them, for more specifics.

(On these last two, the landlord does not necessarily have to pay for the utility services, but he or she must provide the equipment and it must work.)

- Maintain all electrical, plumbing, sanitary, heating, ventilation, and air conditioning systems in good and safe working order.
- Maintain all appliances that are provided with the property. This includes such things as stove, refrigerator, and window air conditioners. (If there is an appliance in the property that you do not want to be responsible for but you are willing to leave for the tenants for their use, you should note that in writing to the tenant and keep a copy.)
- Make sure there is some way to appropriately store and remove garbage and trash from the premises. You do not necessarily have to pay for the services, but you must make sure they are available.
- Tenants have the right to expect that repairs and routine maintenance items get taken care of in a reasonable amount of time. You need to keep in mind that "reasonable" in this case may, unfortunately, be a little less time than you would allow if the repair or maintenance was needed in your own home. Part of your responsibility as a landlord is to provide service and, whereas you might decide to live with some problem or let something go in your own home because you had other priorities, a tenant may not feel the same way and does not have that responsibility.

You could be liable for damages (money losses) to the tenant if you do not take care of maintenance or repairs in a reasonable amount of time. For instance, if a refrigerator goes out, for the first 24 hours the law may look upon the event as an "act of God." After that, if you have not tried to provide repairs or replacement at least on a temporary basis, you might be liable for the tenant's food spoilage and/or for the tenant having to eat out for a time.

Another example would be where heavy rains cause unexpected flooding in below-level rooms or apartments. The tenants should try to get the furniture up on blocks or do whatever can be done on an emergency basis to prevent damage to the property and furniture.

But, after that, the landlord has a responsibility to respond on an emergency basis - get the carpeting water-vacuumed or even pulled up, take care of drying out the unit and/or, if necessary, temporarily or permanently relocate the tenant. Major problems are usually covered by insurance. Regardless, the landlord needs to act.

## **OTHER CODES**

Other codes exist at the state and local level. You should learn about those that apply to your properties. They can be used for you and against you.

Structures housing three or more residential rental units must be in compliance with the Kansas Fire Prevention Code. That code requires smoke alarms, does not require fire extinguishers, and generally requires two safe exits from any building. Local governments that adopt their own fire codes can make them stricter, but not more permissive, than the state's. Check with your local fire department to see if you have a local code. If not, questions can be directed to the State

Fire Marshal in Topeka at 368-4026 or [www.state.ks.us/firemarshal](http://www.state.ks.us/firemarshal) .

Get a copy of your local housing code, if there is one.

What is the difference between a "building" code and a "housing" code? A housing code is what people normally call a "performance code" in that it sets out standards for housing that is already constructed in terms of how things should be or how they should work. For instance, a housing code will say that there should be adequate hot and cold running water but will not specify what kind of pipes there have to be to carry the water to the tap. That is performance. A building code, on the other hand, specifies exact materials and construction and installation methods for the systems and structure of houses. Building codes generally apply to new construction and to substantial repairs or improvements made to existing housing. A building code may require certain kinds of plumbing or wiring in new construction; however, if you have an older property that has plumbing or wiring that is no longer recommended, as long as it works and is safe, it will be okay as far as housing codes go.

Be aware of ordinances that cover water - for instance, clean water for wells.

Many counties have ordinances about noxious weeds and other nuisances. These ordinances have language about overgrown grass and weeds, as well as prohibitions against storing of junk, etc. on residential property.

Some cities and counties also have ordinances defining and controlling abandoned or junk cars.

If your local unit of government has any of these codes, it should have inspectors to enforce them. Voluntary inspections should be available at no charge. After observing problems, inspectors generally send letters giving the responsible party (tenant or landlord) ten to sixty days to correct problems. Most codes allow for extensions of time, if needed. At a certain point, the codes usually give the authorities the power to take care of the problem and bill it to the person or property involved and/or take the responsible person to court and get judgment for fines or jail.

## **UTILITIES**

Make sure, whether your agreement is written or verbal, that who pays which utilities is clear.

If the tenants are responsible to pay any utilities and their usage is the only usage to be billed to that meter, make sure that the billing with the utility company is in the tenant's name.

A landlord may be stuck with large bills because they have tried to do tenants a favor and have left utility billings in the landlord's name. If a prospective tenant has been required by the utility to put up a deposit and doesn't have the money, you probably don't want that person as a tenant. Particularly in the winter, many landlords fear that tenants will leave or not pay bills and utilities will be shut off without the landlord's knowledge causing damage such as frozen water pipes. Leaving the utility in your name or having an arrangement with the utility where it automatically reverts into your name when the tenant orders a shut-off is risky since high bills could accumulate in your name before you get your first statement and realize what has happened.

The best thing to do, if possible, is to leave a written standing order with the utility company that you will be notified whenever a shut-off is imminent. At that point, you can decide whether to have the utility reconnected in your name or make other arrangements.

If you pay the utilities (utilities are included in the rent), make sure you pay them! If a landlord is responsible for utility payments and the utility ends up being cut off while the tenant is in place either because of the landlord's direct request or for non-payment of bills, the landlord can be liable for as much as one and a half times a month's rent or one and a half times the actual damages the tenant suffers, whichever is greater.

Sticky situations can develop when utility bills are split either with the landlord receiving a bill and billing one or more tenants for reimbursement or when a landlord tells tenants, "You divide it up however you want to." There is serious question whether this type of arrangement is legal the way the laws that the Kansas Corporation Commission administers are written. (Language in them prohibits the resale of utilities.) If you set up some arrangement like this, it is important that full disclosure of utility bills and expenses be included and that you be willing to work with tenants to figure out what their share of utility payments will be.

The following is an example of a situation that could occur: In an up-down duplex, the down-stairs tenant is at home all day with the heat on pretty high; the upstairs tenant who is at work all day, comes home and finds the apartment so hot that he has to open the windows to be comfortable. You then find the upstairs tenant not wanting to have to pay his share of the bill because he is not there all day and wouldn't have had the heat on had the bill been in his control versus the downstairs tenant saying that the bill was high because the upstairs tenant always opens the window. Obviously, some accommodation can be made by adjusting vents and so on so that the upstairs apartment is not overly heated, but a setup like that is always going to be difficult.

The best solution is normally to either include the utilities in the rent or separate meters and separate heating/cooling appliances altogether so that the tenants are only responsible for what they actually use.

Weatherization and insulation may be worth considering even though it is not required by law. Weatherization/insulation costs can pay for itself in a short period of time in terms of lower utility bills, more comfortable living spaces, and long-term, satisfied tenants.

If you are housing low-income tenants, there periodically are government programs which provide utility payment and weatherization assistance to low-income people even in rental property as long as the landlord agrees not to evict the tenant without good cause or raise the rent within a certain period of time. These programs might be worth looking into.

## **MAKING REPAIRS AND IMPROVEMENTS**

Don't promise anything you can't do. You are better off to surprise a tenant with a major improvement or repair than to promise and discover that you can't deliver it as you said.

Some types of repairs and improvements are easiest to do when your property is vacant. However, if you have good tenants in place and you expect them to stay, you do have the right to go ahead and work while they are there. As you plan the work and the timing, you need to attempt to have as little inconvenience for the tenants during the course of that work as you would have for yourself if the work was being done on your own home. Make sure your contractors or workmen show your tenants the same courtesy you would. You should not have liability to your tenants for displacement or inconvenience unless, due to your negligence, the situation gets entirely out of hand in terms of time or other inconvenience.

 [Kansas Landlords Handbook \(2007\).pdf](#)

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<http://www.kansaslegalservices.org/node/275/landlord-handbook-and-rights-responsibilities>

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