

Landlord and Tenant Information

As a legal assistance attorney, I have worked with many soldiers and their families struggling with landlord-tenant issues; thus, I have a few general tips that every potential tenant should know before they sign a lease.

First of all, know what you are signing—a lease is a legally binding contract. A common problem that arises with soldiers is the false assumption that they can easily get out of a lease if they later change their mind. When you sign a lease, you are agreeing to be bound by that contract for the duration of the lease. If you fail to pay while bound by the contract you face certain consequences; for example, such failure can negatively affect your credit and you can be sued in court for the amount you owe plus interest.

Second, a military clause is nice, but not always necessary. The Service Members Civil Relief Act (SCRA) is a federal law that trumps any state law, but its protections are limited and may be waived. Thus, it is in your best interest to read your entire lease before signing it (remember the first tip, know what you are signing). The SCRA does not apply in all situations. If you have questions about how it may apply to you then bring the lease into the legal assistance office and we can explain the clause as it applies to you before you are legally bound by it and we can review it for its legality and enforceability.

Even if you qualify to be released from a lease under the SCRA, you may still have to pay about two months worth of rent. For SCRA to apply, two specific steps must happen: first, it requires notification in writing with a copy of your orders (or a letter from your commander) and, second, it becomes effective 30 days after your next monthly rental payment is due. That means if your rent is due on the 1st day of each month and you deliver a written notice to vacate accompanied by a copy of your orders on the 2nd day of May, your lease is still valid until June 30. So you have to pay rent until June 30. Some landlords are great in supporting the military and may let you out early, but that is the exception and not the rule. Either way, prepare for the worst and hope for the best.

Third, if you are signing a lease with someone else, you are jointly and severally liable for the entire amount of the lease if your roommate(s) or your spouse move out or stop paying. This means that if your name is on the lease, the landlord can legally come after you for the entire amount of rent owed, regardless if there is someone else's name on the lease.

Fourth, security deposits in Hawaii cannot exceed one month's rent plus a key or pet deposit if applicable. The landlord can use the security deposit to pay unpaid rent, replace a key, pay for cleaning costs, and pay for any damages. They may not use a security deposit for normal wear and tear. Also, the landlord has the right to keep the entire deposit amount if you wrongfully quit the lease. However, forfeiture of the security deposit does not relieve your obligation to pay rent for any remaining portion of the lease. If any portion of the security deposit is kept by the landlord, you must receive an itemized list of what was deducted postmarked within 14 days. If you do not receive an itemized deduction within 14 days, you can

get the entire security deposit back. A landlord or tenant may dispute security deposit withholdings in the Hawaii Small Claims Court.

Fifth, in this economy, banks are foreclosing on many homes, which include those homes housing tenants. If this happens to you, there is some good news; a new law protects renters living in a foreclosed home. Specifically, if the new owner intends to use the home as their primary residence, they must provide 90 days notice to terminate the lease. If they purchase the property as a rental property, the lease remains valid and enforceable by the new owner and you remain bound by the lease. If you are forced to vacate the home due to a foreclosure, there are some protections under the SCRA that allow the Army to pay for your move.

Last, if you are getting ready to sign a new lease or have any questions about an existing lease, we can help you understand the law and how it applies to you regarding the terms of your lease, security deposits, repairs, access, failure to pay rent, lockouts or turning off utilities, and termination or abandoned property. This applies to rental contracts “on” and “off” post. You can make an appointment to see an attorney by calling (808) 655-8607. Our office is located at building 2037, Aleshire Street, directly across from CIF on Schofield Barracks. You may also call our office located in Fort Shafter Flats at (808) 438-6725.