

TENANT RIGHTS & RESPONSIBILITIES

(As of August 6, 2021)

For legal information purposes only. Seek the assistance of an attorney for legal advice.

Can my landlord evict me?

- Landlords can give notice to tenants who have not paid rent and 45-day notices to end a lease as of on August 7, 2021 which will start the eviction process.
- Tenants should see if they qualify for CDC eviction protection.

How does the non-payment eviction process work as of August 7, 2021?

- Your landlord must give you 15-calendar days' notice that they plan to evict you. During the 15 days, you should be contacted by a mediation center to schedule mediation. If you do not schedule mediation, eviction proceedings in court could start as soon as the 15-calendar day period is over.
- For information about what must be included in the notice, see "Eviction Notice Requirements."
- However, how soon you can be evicted depends on how long it has been since you last paid rent. For example, if you are 4 months or more behind in rent, your landlord may begin the eviction process immediately after the moratorium ends. For those one month behind in rent, the eviction cannot be filed until January 6, 2022.

What is the impact of the August 3, 2021 federal CDC eviction moratorium?

- The CDC eviction moratorium blocks certain evictions based on the most recent transmission rate in the county through October 3, 2021. As such, whether it applies could change daily.
- To qualify, tenants must complete this declaration (https://www.cdc.gov/coronavirus/2019-ncov/communication/EvictionProtectDeclare_508.pdf) and provide a copy to their landlord.
- Prior to signing, tenants should check the CDC transmission map to determine whether the county they live in has a high or substantial transmission rate: <https://covid.cdc.gov/covid-data-tracker/#county-view>,

I am unable to pay my rent, what can I do?

- You should apply for rental assistance immediately. Federal rental assistance provides up to 12 months of rent to those less than 80% of AMI (Area Median Income – determined by County). Payment goes directly to the landlord and landlords can also apply with consent of tenant.
 - Oahu: www.oneoahu.org/renthelp.
 - Hawai'i County: www.HawaiiCountyERAP.org.
 - Kauai County: <https://kauairenthelp.com/>
 - Maui County: <https://www.mauicounty.gov/2438/Maui-County-Emergency-Rental-Assistance->
- DHHL Emergency Rental Assistance Program: www.hawaiiancouncil.org/dhhl. Must be Native Hawaiian.

What happens in mediation?

- Mediation aims to help the tenant and landlord come to an agreement without going to court. Through videoconference, telephone or a secure online platform, landlords and tenants can work with an impartial mediator who will help discuss a variety of options, such as, payment plans, temporary rent reduction, deferred payments, and other creative solutions.
 - Oahu: Mediation Center of the Pacific at (808) 807-0080; <https://www.mediatehawaii.org/sempp/>

- East Hawai'i: Ku'ikahi Mediation Center at (808) 935-7844; <https://hawaiimediation.org/landlordtenant/>
- West Hawai'i: West Hawai'i Mediation Center at (808) 885-5525; <https://whmediation.org/our-services/landlord-tenant/>
- Maui County: Maui Mediation Services at (808) 344-4255; <https://www.mauimediation.org/>
- Kauai: Kauai Economic Opportunity, Inc. Mediation Program at (808) 245-4077 x229 or x237 or mediation@keoinc.org

What should I do to prepare for mediation?

- To prepare for mediation a tenant should:
 - Closely review the notice that the landlord provided for accuracy;
 - Apply or check on the status of rent assistance;
 - Make a budget to know what can be afforded;
 - Make a list of possible violations by the landlord, if any, and reach out for legal help;
 - Identify possible settlements; and
 - Review any materials provided by the local mediation center.

I received court papers for an eviction, what do I need to do?

- Attend the court hearing that is listed on the notice.
- To prepare for the court hearing a tenant should:
 - Closely review the notice that the landlord provided for accuracy;
 - Apply or check on the status of rent assistance;
 - Reach out for legal assistance; and
 - Be prepared to provide proof of any claims.
- At the first hearing, the judge may ask the tenant, “when can they move out?” or “whether they agree or disagree with what the landlord said?” If a tenant believes that the amount past due is wrong or there is anything else written in the court papers that is not accurate, the tenant should enter what is called a “general denial.” This denial will provide some time for tenant to seek legal assistance, get rental assistance or come to some other agreement with the landlord.
- If the parties cannot agree a court will hold a trial to determine whether the tenant should be evicted.

What kinds of violations should a tenant be aware of?

- A landlord cannot increase rent or charge holdover rent holdover rent” (additional rent for staying over a lease) during the State of Emergency declared by the governor (March 4, 2020 – August 6, 2021).
- Your landlord is not allowed to lock you out or turn off your utilities for non-payment without a writ of possession issued by a judge. If your utilities are shut off you can file a temporary restraining order (TRO), see our website for more information: www.legalaidhawaii.org/housing-covid-19.html.
- A landlord cannot charge late fees of more than 8%.
- Refuse to accept rent assistance or assist with receiving rent assistance.

What do I do if I need help or have questions?

- You can contact Legal Aid for assistance at (808) 536-4302 (toll free at 1-800-499-4302), Monday through Friday, 9:00 am-11:30 am and 1:00 pm-3:30pm.
- You may also apply on-line and find more legal information at www.legalaidhawaii.org.

