



JOHNETTA PAYE ESQUIRE

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# From foreclosure to gentrification concerns: How tenants can protect themselves



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THE FIRST 4 TIPS ALL NEW LANDLORDS NEED TO KNOW



2008 will forever be known for three nationally historical moments: the presidency of Barack H. Obama, the job decline resulting from George Bush Jr.'s presidency, and the U.S. government taking control of the two largest mortgage financing companies — Fannie Mae and Freddie Mac.

But in Chicago, another storm was brewing (minus the excitement of Grant Park). Forced entry evictions in Cook County increased by 55 percent since 2008, according to [WBEZ](#). While homeowners were having homes foreclosed on due to the effects of a recession, Chicagoan renters were getting the short end of the stick, too.

In a [Chicago Reader report](#), over 18,400 total eviction cases were filed, a startlingly higher number than WBEZ's report of 15,300 evictions in 2013. The northwest side of Chicago continues to see a transition in gentrification. In that same Reader report, tenants deal with an exhausting assortment of confusion: a no-cause eviction notice under a tenant's door requiring her to move out by the end of the month; landlords requiring tenants with verbal or no lease to move out in 30 days; accusations of unpaid rent; a small real estate company rehabbing a building and boosting the rental rates; new owners of a real estate company allegedly not informing tenants where to send their rent; court reporters not overseeing a case so there's no written record for potential appeal; and tenants withholding rent due to maintenance disputes.

This building alone had an exorbitant amount of problems, but this is not an issue unique to Chicago. Lack of communication across all sides, including neighborhoods that aren't facing gentrification, can lead to tenant versus property owner issues.

### **Knowing basic tenant rights**

#### **When does a landlord have grounds to evict a tenant?**

- If you fail to pay the rent when it is due;
- If you violate the terms and conditions of the lease;
- If you damage the property;
- If you refuse to leave the property at the end of your lease term; or

- If you damage the property,
- If you refuse to leave the property at the end of your lease term; or
- If you do not have a written lease and just pay monthly rent.

### **Does the landlord have to give the tenant notice?**

Illinois law prevents landlords from using any self-help remedies to evict a tenant. A landlord cannot attempt to evict a tenant by shutting off utilities, changing the locks or moving the tenants' possessions out of the apartment.

If a landlord wants to evict the tenant for no payment of rent, he or she is required to serve the tenant with a five-day written notice.

If the landlord wants to evict the tenant for violating the lease terms (i.e., damage to the apartment or being a disturbance to neighbors), he or she is required to serve a tenant with a 10-day written notice.

If a tenant does not have a written lease, then the landlord can evict the tenant for no reason. He or she just has to give the tenant a 30-day written notice.

### **What defenses are available to a tenant facing eviction?**

- The landlord used self-help methods to evict the tenant



### What defenses are available to a tenant facing eviction?

- The landlord used self-help methods to evict the tenant, such as changing the locks.
- The landlord did not follow the proper eviction procedure. For example, the landlord failed to give the tenant a five-day notice for failure to pay the rent before filing the eviction lawsuit.
- The landlord breached the lease agreement. (For example, the lease required the landlord to maintain the property in a livable condition. The landlord has failed to remediate the mold problem in a unit, and as a result the unit is no longer livable.)



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Recommended Reading: Learn about the Keep Chicago Renting Ordinance in Sun Times "[Tenants stood their ground, changed landscape for renters](#)"  
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### Verbal agreement instead of written lease: Legal or no?



*(Photo credit: iStock)*

A lease is required to be in writing if it is for a period of one year or longer. Verbal leases are legal because they are typically for a period of 30 days or month to month. If a tenant has a verbal lease, the landlord can evict the tenant for no reason. They just have to give the tenant a 30-day written notice.

A tenant can ask the new landlord for a written lease, but the landlord has no obligation to extend the tenant a lease if the tenant does not already have a written lease in place.

### New property owners not giving new payment address: Suspicious or realistic?

The fact that the tenant in the Reader post did not know the address of the new landlord does not eliminate the tenant's obligation to pay rent when it is due. Under the law, the five-day notice has to inform the tenant where to pay the rent within the five days.

If the tenant can prove that he or she paid his or her rent within the five days, it is a defense to an eviction action.

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If the written notice does not comply with the statutory guidelines, this is a defense to the eviction action. In the case of a 30-day notice, if a judge found out it was not proper in form, then the judge may require the landlord to re-serve the notice. The landlord would have to wait for a new 30-day period to start to serve the notice.

#### **Eviction notice in 24 hours instead of 30 days: Should tenant leave?**

Under Illinois law, it is illegal for a landlord to use self-help methods to evict a tenant. For example, if a tenant received a 30-day notice and on day 31 the landlord threw the tenant's possessions out, this would be against the law. The landlord has to initiate an eviction action in court once the 30 days has expired. If a landlord does use self-help methods to evict the tenant, the tenant may be entitled to monetary damages.

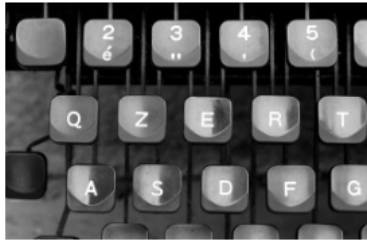
#### **Landlords "hiding" rent checks to make them late: Does this really happen?**

The tenant has the burden of proving he or she paid the rent on time. It is advisable that the tenant pay the rent with a check, money order or cashiers check so he or she has written documentation to show in court that the rent was paid on time and received by the landlord.

A tenant who pays rent in cash should get a signed receipt from the landlord that contains the date the cash payment was submitted to the landlord

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### Are court reporters mandatory during a trial?



The court has no obligation to provide a court reporter for the tenant. If a tenant wants a record of the court proceeding, it is the tenant's responsibility to hire a court reporter to be present at the hearing.

### Tenant protection against upgrades, gentrification concerns

There is really nothing a tenant can do if the landlord decides to remodel and/or upgrade the property in order for the landlord to increase the rental value of the property.

Or, if the tenant's former landlord decides to sell the property to a new landlord, who plans to upgrade the property, the tenant has little recourse. (While some cities — such as New York City — have [rent control](#), other cities — such as Chicago — are in states that [preempt rent control](#).) The tenant can try to negotiate a written lease with the landlord so that they can stay in the apartment for a set period of time even after the new owner takes over. However, it is up to the new owner and that tenant to renew the lease or enter into a lease if the tenant does not already have one.



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Have more landlord and/or tenant questions? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

*The information contained here is intended to provide useful information on the topic covered but should not be construed as one-size-fits-all legal advice. Speak to an attorney specifically about your contractual agreement for specific terms and conditions.*

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