

Mind Your Business – Tia’s Tips for Better Rental Management

By Tia Politi, ORHA Forms Committee Chair

Senate Bill 608 leads to new and updated forms

Since the passage of SB 608, our state sponsor, the Oregon Rental Housing Association (ORHA), has tasked the Forms Committee, led by yours truly, to alter current forms and create new ones to help rental owners comply with the mandates of the new law. Here’s a rundown of the changes:

New Forms

ORHA Form # 5 Notice of Termination – First-Year Tenancies

This form has changed a little, but with a new heading, reminds landlords that this option for termination without cause now only applies to month-to-month tenancies of less than one year. Unless the notice is effectively served prior to the end of the first year of tenancy, landlords may only terminate a tenancy for cause or for a qualifying landlord reason. We have left the time option boxes intact as many month-to-month tenancies, even those within their first year, mandate different notification periods. For example, subsidized housing tenants are entitled to a minimum 60-day notice of termination and the notice must expire at the end of a calendar month. In some cities, like Bend, Milwaukee and Portland, termination time frames are 90 days, regardless of length of tenancy. Remember, first year of tenancy includes all periods during which any of the tenants has resided in the dwelling unit for less than one year, so if a new tenant was added at some point, the tenancy clock resets and the tenancy is considered to be in its first year.

ORHA Form #5A – Notice of Termination – Qualifying Landlord Reason

After the first year of occupancy, the landlord may only terminate a tenancy (month-to-month or fixed-term) for cause or with 90-days’ written notice for one of four Qualifying Landlord Reasons: 1) The landlord intends to demolish the unit or convert it to a use other than residential use within a reasonable time; 2) The landlord intends to undertake repairs or renovations to the unit within a reasonable time and the unit is unsafe or unfit for occupancy, or will be unsafe or unfit for occupancy during repairs or renovations; 3) The landlord intends for the landlord or a member of the landlord’s immediate family to occupy the unit as a primary residence, and the landlord does not own a comparable unit in the same building that is available for occupancy; 4) The landlord is selling the property, and has accepted an offer to purchase the unit separately from any other unit from a person who intends in good faith to occupy the unit as their primary residence. The landlord must provide the notice and written evidence of the offer to purchase the unit to the tenant not more than 120 days after accepting the offer to purchase. If terminating a tenancy under the exception, at the time the notice is delivered, the landlord must pay a relocation fee equivalent to one months’ periodic rent, unless exempt. Landlords with an ownership interest in four or fewer residential dwelling units are exempt from payment of the relocation fee.

ORHA Form #5B - Notice of Non-Renewal of Lease

First year: Landlords may serve a notice of non-renewal of lease to a tenant with 30-days' written notice, but only if the ending date of the fixed-term falls within the first year of occupancy. Remember, regardless of length of tenancy, proscribed notice periods may be longer in certain local jurisdictions or in subsidized housing. Notice of nonrenewal of lease within the first year of occupancy for a lease of less than one year may be served prior to the specified ending date for the fixed term, or 30 days prior to the date designated in the notice for the termination of the tenancy, whichever is later.

Three Strikes: A landlord may also terminate a lease with 90-days' written notice if the tenant has committed three or more lease violations, including non-payment of rent, within the calendar year preceding service of the notice. To terminate a tenancy under this provision, the landlord must provide a written warning notice at the time of each violation. Each warning notice must specify the violation, state that the landlord may choose to terminate the tenancy at the end of the fixed term if there are three violations within a 12-month period preceding the end of the fixed term, and state that correcting the third or subsequent violation is not a defense to termination under this subsection. The 90-day notice of termination must state that the rental agreement will terminate upon the specified ending date for the fixed term or upon a designated date not less than 90 days after delivery of the notice.

ORHA Form #5C Notice of Termination - Two-Unit Owner-Occupied Property

Landlords who own two units occupying the same tax lot where the landlord occupies one unit as their primary residence, may continue to provide a minimum of 60-days' written notice of termination for no cause for that specific rental property, even after the first year of occupancy. The landlord may also terminate a tenancy that meets this property exception with 30-days' written notice, if the landlord has accepted an offer to purchase from a buyer who intends in good faith to occupy the tenant's rental unit as their primary residence. The landlord must provide the notice and written evidence of the offer to purchase the unit to the tenant not more than 120 days after accepting the offer to purchase. Remember, regardless of length of tenancy, proscribed notice periods may be longer in certain local jurisdictions or in subsidized housing. If terminating a tenancy under the exception, at the time the notice is delivered, the landlord must pay a relocation fee equivalent to one month's periodic rent, unless exempt. Landlords with an ownership interest in four or fewer residential dwelling units are exempt from payment of the relocation fee.

Updated Forms

Both rental agreements – **ORHA Form #2A – Month-to-Month Rental Agreement**, and **ORHA Form 2B – Fixed-Term Rental Agreement** – have been modified to include new termination and rent increase language.

To make it easier for landlords to provide warning notices to tenants under a fixed-term lease and potentially terminate a lease under the Three Strikes rule, the following forms have had new language included that states: If you are on a fixed-term lease, be advised your landlord

has the option to terminate your tenancy at the end of your lease if you have received three or more notices for noncompliance (including non-payment of rent) within a 12-month period preceding the end of the fixed term. Owner/Agent may terminate the tenancy by issuing a 90-day notice prior to the lease end date, or 90 days prior to the date designated in the notice, whichever is later. Correcting the third or subsequent violation is not a defense to the termination. This is your ____ violation in the last 12 months.

This language has been added to all non-compliance forms, including:

ORHA Forms #4 & #44 – 72/144 Hour Notice of Non-Payment of Rent

ORHA Form #6 – Unauthorized Pet Violation

ORHA Form #14 – Past-Due Rent Reminder

ORHA Form #34 – Parking Violation

ORHA Form #35 – Notice of Non-Compliance

ORHA Form #38 – Notice of Termination with Cause

ORHA Form #13 – Notice of Rent Increase

In a month-to-month tenancy, the landlord may increase the monthly rent upon providing 90-days' written notice to each affected party provided that the increase will not be effective prior to the end of the first year of tenancy, and that it will not exceed 7% plus the Consumer Price Index (CPI) for the West Coast (currently 3.3%) annually, unless exempt. Newer properties are exempt – If the certificate of occupancy for the dwelling unit was issued prior to 15 years from the date of the rent increase notice, there is no limit on rent increases. The landlord must state the exemption in the notice and provide documentation supporting the facts of the exemption - such as a copy of the Certificate of Occupancy - at the time the notice is delivered. The form has been changed to include this language and also now includes a section stating what the percentage of increase is being imposed.

Note on resetting rents between tenancies - If the prior tenancy was terminated for cause or initiated by the tenant, the landlord may reset rents without limit. If the prior tenancy was terminated within the first year without cause, the landlord may not raise the rent for the next tenant above the limits imposed by SB 608.

With new laws, comes the need for more education. SB 608 includes the highest penalties for non-compliance – three months' periodic rent plus the tenant's actual damages, so pay attention and if you have any questions about how to proceed, call your local Association.

This column offers general suggestions only and is no substitute for professional legal counsel. Please consult an attorney for advice related to your specific situation.