

RENTER'S HANDBOOK ON LOCKOUTS AND OUSTERS

Did your landlord change the locks or prevent you from entering a space that you are renting? Did your landlord turn off your utilities (water, electricity, hot water, or other essential service)? If you are a tenant and your landlord has done either of these things, you have legal rights. This handbook contains information about those rights and a sample letter you can use if you have been locked out or threatened with a lockout.

YOUR LANDLORD MUST OBTAIN A COURT ORDER TO EVICT YOU!

Oregon law requires a landlord to use the court system to evict you. The only legal way to force you out of your home is for the landlord to go to court and get an order that requires you to leave. It is against the law for your landlord to lock you out, threaten to lock you out, remove your personal property from your home, turn off water, power, or heat, or threaten to do any of those things. It does not matter if you are current on your rent. A landlord cannot evict you physically or attempt to force you out by turning off your utilities. ORS 105.105, 105.110.

WHAT SHOULD YOU DO IF YOUR LANDLORD UNLAWFULLY LOCKS YOU OUT OR OUSTS YOU?

If your landlord unlawfully locks you out or forces you to move by removing your personal property, removing a door, or turning off utilities, you have options. You may:

- **Option 1:** Tell your landlord that it is illegal and ask to be let back into your home. A sample letter you can give to your landlord is included at the end of this packet. If this doesn't work, see if you can get in through a window or another door. If the landlord refuses to let you back in and you cannot get in on your own, you can call the police. They will sometimes help. They may say that it is a civil dispute and that they will not help you. If so, contact a lawyer. If you need help finding an attorney, you can contact the Oregon State Bar Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.
- **Option 2:** Immediately file a lawsuit seeking an order forcing your landlord to let you back into your home at once.
- **Option 3:** End your tenancy, even if you are the middle of a lease, and not pay any further rent.

\$ YOU CAN SUE FOR MONEY DAMAGES \$

Whether you choose Option 1, Option 2, or Option 3, you may also sue your landlord for damages in an amount equal to two months' rent or whatever your actual financial loss is as a result of the lockout or ouster, whichever is larger. ORS 90.375, 90.322. You may also sue for another month's rent or actual damages if the landlord entered your

home without giving you 24 hours' notice beforehand (for example, to change the locks). ORS 90.375.

HOW TO SUE YOUR LANDLORD

You can hire an attorney to file a lawsuit or you can file a claim in Small Claims Court without an attorney. If you need help finding an attorney, you can contact the Oregon State Bar Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

Small Claims Court: For more information about Small Claims Court, including how to complete court forms, how to file your case, and what to expect from the process visit our website at www.oregonrentersrights.org or contact Legal Aid Services of Oregon at (503) 224-4086 and ask for a copy of our Renter's Handbook on Small Claims Court.

HOTEL AND MOTEL LOCKOUTS - YOUR RIGHTS AS A TENANT

If the law considers the hotel or motel room to be your home, then the owner/landlord cannot legally change the locks or remove your things. This is true even if you owe rent.

- **When does the law consider a hotel or motel room to be a home?** When the renter intended to make the hotel or motel room a relatively permanent residence. If you have lived in the room for more than 30 days and you have no other residence, it is almost certainly your residence.
- **When is hotel or motel room NOT a home?** When the renter has a "transient occupancy." A transient occupancy is when:
 - Rent is charged per day and is not collected more than six days in advance;
 - Maid and linen service is provided at least once every two days; AND
 - The occupant has not lived there more than 30 days.
- **What should I do if the hotel or motel is legally my home and I have been locked out or my belongings have been removed?**
 - **IMPORTANT: KEEP YOUR KEY!** If you voluntarily give up your key to your landlord, you may be giving up your rights.
 - Tell your landlord that it is illegal and ask to be let back into your home/room. A sample letter you can give to your landlord is included at the end of this packet .You can also use your key to return to your room if the key still works and no one stops you. You may also call the police, who may advise your landlord that he/she needs to use the eviction process to terminate your tenancy. The police may say that it is a civil dispute and that they will not help you. If so, contact a lawyer. If you need assistance finding an attorney, you may contact the Oregon State Bar

Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636. If your landlord will not let you back in, you can immediately file a lawsuit seeking an order forcing your landlord let you back into your home at once.

- **Can I sue for money damages?** If the hotel or motel was legally your home and you were illegally locked out or your belongings were illegally removed, you may sue your landlord for damages in an amount equal to two months' rent or whatever your actual financial loss is as a result of the lockout or ouster, whichever is larger. ORS 90.375, 90.322. You may also sue for another month's rent or actual damages if the landlord entered your home without 24 hours' notice beforehand (for example, to change the locks). ORS 90.375.
- **What should I do if my landlord calls the police?** Show the police officer rent receipts, mail or identification with the hotel address, or this brochure. If the officer tells you to leave or you will be arrested, ask for the name and badge number of the officer and call a landlord tenant attorney. If you cannot reach an attorney, you may need to leave to avoid arrest. If you need help finding an attorney, you can contact the Oregon State Bar Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636. Again, keep your key!

DRUG AND ALCOHOL PROGRAMS/HOUSING: Please note that this information and the law may be different depending on the type of drug or alcohol program, the agreement surrounding the program/housing, and the length of stay. You should speak to an attorney about your individual case. If you need help finding an attorney, you can contact the Oregon State Bar Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

IF YOU HAVE BEEN LOCKED OUT OR THREATENED WITH A LOCKOUT: Give this letter and the laws that follow to your landlord and/or the police in an effort to resolve the dispute and stop your landlord from taking unlawful steps to evict you. Keep a copy for your records.

Date: _____

Dear Landlord:

I am a tenant at _____. I am writing because I was locked out/threatened with a lockout or ousted (landlord turned off utilities or removed personal property) on (date) _____.

Oregon law prohibits lockouts and ouster. Without a court order, it is against the law for a landlord to lock a tenant out, threaten to lock a tenant out, remove a tenant's personal property from the tenant's home, turn off water, power or heat, or threaten to do any of those things. Tenants may only be removed from the property by a sheriff acting pursuant to a court order. ORS 105.105, 105.110.

If you lock me out or force me to move by removing my personal property, removing a door, or turning off my utilities, the law allows me to end my tenancy or immediately file a lawsuit seeking an order forcing you to allow me to return at once. Additionally, I can sue you for damages, which could include up to three months' rent for a lockout and an unlawful entry plus court costs and attorney fees. ORS 90.375, 90.322.

Please comply with your legal obligations by letting me back into my home and stopping any further attempts to lock me out or oust me from my home. I have attached copies of the laws referenced in this letter.

Sincerely,

_____ [Tenant Signature and Printed Name]

ORS 90.322 Landlord or agent access to premises; remedies.

(8) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but that have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the reoccurrence of the conduct or may terminate the rental agreement pursuant to ORS 90.360 (1). In addition, the tenant may recover actual damages not less than an amount equal to one week's rent in the case of a week-to-week tenancy or one month's rent in all other cases.

ORS 90.375 Effect of unlawful ouster or exclusion; willful diminution of services.

If a landlord unlawfully removes or excludes the tenant from the premises, seriously attempts or seriously threatens unlawfully to remove or exclude the tenant from the premises or willfully diminishes or seriously attempts or seriously threatens unlawfully to diminish services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric or other essential service, the tenant may obtain injunctive relief to recover possession or may terminate the rental agreement and recover an amount up to two months' periodic rent or twice the actual damages sustained by the tenant, whichever is greater. If the rental agreement is terminated the landlord shall return all security deposits and prepaid rent recoverable under ORS 90.300. The tenant need not terminate the rental agreement, obtain injunctive relief or recover possession to recover damages under this section.

ORS 105.105 Entry to be lawful and peaceable only.

No person shall enter upon any land, tenement or other real property unless the right of entry is given by law. When the right of entry is given by law the entry shall be made in a peaceable manner and without force.

ORS 105.110 Action for forcible entry or wrongful detainer.

When a forcible entry is made upon any premises, or when an entry is made in a peaceable manner and possession is held by force, the person entitled to the premises may maintain in the county where the property is situated an action to recover the possession of the premises in the circuit court or before any justice of the peace of the county.