

XII. LEASE TERMINATION PROCEDURES

A. General Policy: Lease Termination

No resident's lease shall be terminated except in compliance with HUD regulations and the lease terms.

B. "One Strike and You're Out"

The Housing Authority of Billings has a progressive drug/alcohol policy.

1. If the Housing Authority has determined that any tenant, member of a tenant household, or guest or other person under the tenant's control is illegally using a controlled substance; or if they are engaging in any drug-related criminal activity on or off the premises, they may be terminated from Public Housing.
2. The Housing Authority may terminate the tenancy of any person if they determine that the person's abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

C. Exclusion of non-residents

The Housing Authority of Billings is committed to providing a safe and decent environment throughout HAB's properties. Tenant agrees to HAB's reservation of the following rights to aid in providing a safe and decent environment throughout HAB's properties.

1. HAB reserves the right to prohibit non-HAB residents soliciting and/or trespassing on HAB property.
2. HAB reserves the right to exclude non-residents, including but not limited to Tenant's guests who:
 - Disturb other residents' peaceful enjoyment of their accommodations, community facilities, or other areas of HAB property;
 - Engage in illegal or other activity which would impair the physical or social environment on HAB's property;
 - Engage in any criminal activity threatening other residents, HAB employees, contractors, and/or law enforcement officials health, safety or peaceful enjoyment of HAB's properties;
 - Engage in drug-related criminal activity on HAB property;
 - Destroy, deface, damage or remove HAB's equipment, vehicles, and/or any part of the dwellings, buildings, facilities, or other areas of HAB's properties;
 - Engage in the illegal use or illegal possession of firearms and/or other offensive weapons on HAB's properties; and/or
 - Intentionally violate HAB's rules, regulations, policies, and/or procedures established for the benefit and well being of HAB's residents, property and law enforcement officials.
3. Any Tenant who disagrees with HAB's exclusion of a guest may submit the matter to the Grievance Procedure Process.
4. Any person excluded under the Section shall be excluded for a period determined by the Executive Director or one (1) year from the date they are notified of the exclusion, whichever is shorter.

D. Termination of the Lease

1. Tenant may terminate this lease by giving Management thirty (30) days written notice of intent to vacate.
2. Management may terminate the lease for substantial and/or repeated violations of material terms of the Lease. A substantial violation of the Lease includes, but is not limited to the following:
 - (a) Failure to repay HAB within thirty (30) days for repairs;
 - (b) Permitting unauthorized guests to live in the units;
 - (c) Failure to repay HAB for assistance overpayments;
 - (d) Serious or repeated damage to the unit or common areas;
 - (e) Repeated late rent payments and/or repeated failure to pay late rent charges;
 - (f) Failure to report increases in household income or change in family composition within ten (10) days of the change;
 - (g) Disabling of a smoke detector;
 - (h) Failure to maintain utility services;
 - (i) Modification of a dwelling unit, including changing or adding a lock, without prior written HAB approval;
 - (j) Engaging in threatening behavior that endangers the life, health, or safety of HAB personnel, other Management residents, neighbors, family members, contractors or law enforcement;
 - (k) Serious or repeated disturbance of other residents' peaceful enjoyment of their accommodations, community facilities, or other areas of HAB's property;
 - (l) Violating the exclusion rule set out in the Lease by allowing excluded non-residents to remain on HAB's property.
3. HAB may terminate the lease, if Tenant, any member of Tenant's household, or guest, or any other person under the tenant's control engages in criminal activity on or near HAB's property that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents, HAB employees or contractors and any of the following:
 - (a) Criminal activity that threatens the health, safety, or right to peaceful enjoyment of the residences by persons residing in the immediate vicinity of the premises; or
 - (b) Drug-related criminal activity on or off the premises. "Drug-related criminal activity" means the illegal manufacture, sale distribution, use or possession with the intent to manufacture, sell, distribute, or use of a controlled substance; or
 - (c) Violent criminal activity committed on or near HAB's property.
4. HAB may terminate the Lease if Tenant or any member of Tenant's household's abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
5. An incident or incidents or actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The HAB may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

The HAB may honor court orders regarding the rights of access or control of the property, including restraining orders and other orders issued to protect the victim and is used to address

the distribution or possession of property among household members where the family “breaks up.”

There is no limitation on the ability of the HAB to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the HAB evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated.”

Any protections provided by law which give greater protection to the victim are not superceded by these provisions.

The HAB may require certification by the victim of victim status on such forms as the HAB and/or HUD shall prescribe or approve.

Definitions

The same definitions of “domestic violence,” “dating violence,” and “stalking,” and of “immediate family member” are provided in Sections 606 and 607. While definitions of domestic and dating violence refer to standard definitions in the Violence Against Women Act, the definition of stalking provided in Title VI is specific to the housing provisions.

These are:

1. *Domestic Violence* – [as defined in Section 40002 of VAWA 1994] which states as follows:

SEC 40002(a)(6) – “DOMESTIC VIOLENCE - The term ‘domestic violence’ includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.”

2. *Dating Violence* – [as defined in Section 40002 of VAWA 1994] which states as follows:

SEC 40002(a)(8) – “DATING VIOLENCE- The term ‘dating violence’ means violence committed by a person—

(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship.

(ii) The type of relationship.

(iii) The frequency of interaction between the persons involved in the relationship.”

3. *Stalking* – “means -

(A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and

(B) in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –

(i) that person;

(ii) a member of the immediate family of that person; or

(iii) the spouse or intimate partner of that person; ...”

3. *Immediate Family Member* - “means, with respect to a person –

(A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or

(B) any other person living in the household of that person and related to that person by blood or marriage.”

E. Notice Requirements

1. No residents shall be given a Notice of Lease Termination without being told by PHA in writing the reason for the termination.
 - The resident must also be informed of his/her right to request a hearing in accordance with the Grievance Procedure and given the opportunity to make such a reply as he/she may wish.
 - Lease terminations for certain actions are not eligible for the Grievance Procedure, specifically: any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or HAB employees, and any drug-related criminal activity.
2. Tenant Responsibility: Any notice to the HAB must be in writing, delivered to the Housing Authority or sent by prepaid first-class mail, properly addressed.
3. PHA Responsibility: Notice to Tenant must be in writing, delivered to Tenant or to any adult member of the household residing in the dwelling unit, or sent by first-class/certified mail addressed to Tenant.
 - (a) HAB will give a 14-day notice to remedy lease violations as stated in Section 70-24-422 of the Montana Residential Landlord and Tenant Act.
 - (b) Unopened, cancelled, first class mail or certified mail returned by the Post Office shall be sufficient evidence that notice was given.
 - (c) Notice shall include a statement describing right of any resident with a disability to meet with the HAB and determine whether a reasonable accommodation could eliminate the need for the lease termination.
 - (d) If tenant is visually impaired, all notices must be in an accessible format.

In cases where HAB elects to terminate the Lease, it will give the Tenant the following notice:

- (a) 14 days in the case of failure to pay rent;
- (b) a reasonable time not to exceed thirty (30) days, considering the seriousness of the situation when the health or safety of other tenants or PHA staff is threatened;
- (c) 30 days if 14-day notice violation is not remedied;
- (d) If substantially the same act or omission that constituted a prior non-compliance of which notice was given recurs within 6 months, a 30-day notice will be issued.

F. Recordkeeping Requirements

A written record of every termination and/or eviction shall be maintained by PHA, and shall contain the following information:

- Name of resident, race and ethnicity, number and identification of unit occupied.
- Date of the Notice of Lease Termination and any other state or local notices required, which may be on the same form and run concurrently;

03/2007

- Specific reason(s) for the Notice(s), with section of lease violated, and other facts pertinent to the issuing of the Notice(s) described in detail;
- Date and method of notifying resident; and
- Summaries of any conferences held with resident including dates, names of conference participants and conclusions.