



New Jersey Department of Community Affairs Division of Codes and Standards Landlord-Tenant Information Service



RIGHT OF ENTRY

February 2008

This bulletin provides a brief summary of the statutes pertaining to: forcible or unlawful entry and detainer; forcible detainer; and unlawful detainer, pursuant to N.J.S.A. 2:A:39-1 et. seq. These are three separate provisions that address the issues of unlawful entry to a rental unit and the unlawful withholding of a rental unit (detainer). This bulletin is for informational purposes only and should not be used for legal interpretations or legal advice. Please consult an attorney for legal services and advice when necessary.

In general a landlord does not have the right to enter the residential rental premises without consent of the tenant or a judgment from the Superior Court of New Jersey. Even if given legal authority to enter the rental premises, the landlord may only enter in a peaceable manner. The landlord may not use force or violence or the threat of force or violence to gain entry to the premises.

Providing the landlord with a key

If there is no lease provision or written rental rule requiring a key to be given to the landlord, a tenant is not required to provide a key for the landlord. In New Jersey there is no law that requires a tenant to give a landlord a key to the rental unit. There is also no law that prohibits a landlord from keeping a key to a rental unit. A tenant disputing the landlord's right to a key can simply refuse to provide the landlord with a key. The landlord may then seek an action for eviction based on the tenant's refusal to comply with reasonable lease provisions. The judge would then decide if it is reasonable for the tenant to supply the landlord with a key.

Forcible or unlawful entry and detainer

A landlord shall be guilty of an unlawful entry and detainer, if the landlord enters the rental premises peaceably or forcibly and then detains (keeps or takes possession of) the property by force or the threat of force or if the landlord enters the rental unit and removes the tenant's personal property without the consent of the tenant or a judgment from the Superior Court of New Jersey. If a landlord enters a tenant's unit while the tenant is not home, this is considered forcible entry.

Forcible detainer

A landlord shall be guilty of forcible detainer, if the landlord enters the rental premises forcibly or legally, with the tenant's permission or a court order, and then uses force to detain the property.

Unlawful detainer

If any tenant willfully and without force, holds over (remains) at the rental premises after the tenant has been given a written notice demanding delivery of possession (notice to quit) of the rental premises from the tenant to the landlord, the tenant shall be guilty of an unlawful detainer.

If a tenant is guilty of unlawful detainer, the tenant shall pay the landlord double the rent for as long as the tenant holds over. In addition, if a tenant after giving notice that the tenant will be quitting the premises, holds over, the tenant shall pay double the rent for the holdover time that the tenant possesses the premises.

Filing a Complaint for unlawful entry and detainer

Any legal action for a forcible unlawful entry and detainer, forcible detainer and unlawful detainer shall be brought before the Superior Court, and the court may hear and make a determination in that action. If a landlord enters the rental unit unlawfully, a trespass complaint may be filed with the local police department, under the New Jersey Criminal Code for "defiant trespass".

A tenant or landlord depending on the judge's decision shall be entitled to possession of the real property and shall recover all damages that may have been caused by the unlawful entry and detainer, including court costs and attorney's fees. When it is not appropriate to return the person to possession of the premises, triple damages shall be awarded.

Access to the property

Pursuant to State regulations governing the maintenance of multiple dwellings, N.J.A.C. 5:10-1.1 et seq., the Bureau of Housing Inspection or an authorized representative has the authority to enter and inspect at any reasonable times any multiple dwelling units. A multiple dwelling is a building with three or more independent dwelling units. It is the duty of the landlord to notify the tenant when the Bureau of Housing Inspection has scheduled the property for an inspection.

The same regulations provide that upon reasonable notification tenants must give the landlord and the landlord's employees access to the dwelling unit for the purpose of inspection and maintenance. Reasonable notification is normally one day. However, in the case of safety or structural emergencies immediate access shall be granted.

Consent of the tenant is required for inspection of the tenant's private living quarters, except in the following cases:

1. In case of emergencies where a condition exists that pose an immediate threat to the safety or health of persons using or near the premises.
2. Where access to any premises has been denied and inspection is desired to implement the policy of the Bureau of Housing Inspection.

A landlord may request entry to a rental unit to perform other services or to show the unit for re-renting or sale. However there is no law that obligates a tenant to allow a landlord access to the rental premises for purposes other than inspection, maintenance and repair. Therefore, the issue of entry in other cases should be addressed in the terms of the lease.