

PUBLIC HOUSING GRIEVANCE PROCEDURE

Introduction

As a public housing tenant, you have the right to appeal many decisions or actions taken by the Housing Authority through its administrative Public Housing Grievance Procedure. Every Housing Authority is required by federal law to adopt a written public housing grievance procedure. A copy of the agency's grievance procedure should be posted in their office and available upon request.

When may a public housing tenant file a grievance?

A public housing tenant may use the grievance procedure to contest most adverse decisions or actions taken by the Housing Authority. This includes any dispute that a tenant has with agency action or failure to act in accordance with the tenant's lease or agency regulations that adversely affects the tenant's rights, duties, welfare, or status. In most cases, the Housing Authority is required to inform tenants about this procedure whenever making a decision pertaining to their tenancy. However, this procedure can be used regardless of whether the Housing Authority has done so.

A tenant may use the grievance procedure to challenge the Housing Authority's failure to make repairs, maintenance charges, late fees, the calculation of rent, refusal to add household members, and most evictions. The grievance procedure may not be used to resolve disputes between tenants not involving the Housing Authority or to decide class grievances. It is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the Housing Authority.

The Housing Authority may, in some cases, deny a tenant a grievance hearing when the tenant is being evicted for activity that threatens the health or safety of other tenants or the Housing Authority's employees, or that involves drug-related, criminal activity. Before doing so, the Housing Authority must have a written grievance procedure that allows them to do this. The Housing Authority must also provide certain information in its eviction notice. If a public housing tenant is not given an opportunity to challenge his or her eviction through the grievance procedure, the Housing Authority may not recover possession of the apartment without filing a lawsuit and going to trial, provided the tenant responds to the eviction lawsuit in a timely manner.

How does the grievance procedure work?

The grievance procedure is a two-step process. First, the tenant files a grievance and meets with the Housing Authority to discuss the matter. If the dispute still cannot be resolved, the tenant may then request an informal hearing before an impartial, disinterested hearing officer or panel. The hearing officer or panel has the authority to reverse the Housing Authority's decision.

There are time deadlines for filing a grievance and requesting a hearing. Tenants must be

Careful to meet these deadlines or they may waive their right to challenge the Housing Authority's actions.

How does a public housing tenant present a grievance?

A tenant must file a grievance within a reasonable period of time, preferably by the deadline stated in the Housing Authority's notice if he or she wishes to contest an adverse action. Although a grievance may be presented orally, it is best to put the grievance in writing. An applicant or tenant should keep a copy of the grievance and ask the Housing Authority to date stamp it to show when it was filed.

The tenant and the Housing Authority will then discuss the grievance in an attempt to settle their dispute without a hearing. The Housing Authority must then prepare a summary of the meeting within a reasonable time or within the deadline stated in the agency's grievance procedure. The summary should specify who participated in the meeting, when it occurred, the proposed resolution, and the specific reasons for it. The summary should also explain how the tenant may request a hearing if he or she is not satisfied with the result of the meeting.

How does a public housing tenant request a hearing?

They should give the Housing Authority a written request for a hearing within the deadlines stated in the meeting summary. The request should state (1) the reasons for the grievance; and (2) what action or relief the tenant wants.

In most cases, a public housing tenant must first present a grievance to the Housing Authority and meet and discuss it informally as discussed above before requesting a hearing. This requirement can, however, be waived by a hearing officer or panel where the tenant shows good cause for not doing so. If a tenant fails to request a hearing by the deadline set forth in the Housing Authority's notice or grievance procedure, the agency's decision will be final. The tenant may, however, still contest the matter in court.

How is the hearing officer or panel selected?

The Housing Authority is required to appoint an impartial hearing officer or hearing panel to decide the dispute. The Housing Authority's written grievance procedure should explain what method it will use to appoint the hearing officer or panel. HUD regulations state that the Housing Authority may appoint officers or employees of the Housing Authority as hearing officers, provided they did not make or approve the action under review and do not work under the person who did. The Housing Authority should consult with any residents' organizations before appointing a hearing officer or panel and take their comments into consideration. A public housing tenant should file a written objection if he or she feels the hearing officer or panel cannot be a fair decision-maker.

What rights does the tenant have to see documents before the hearing?

A public housing tenant has the right to examine before the grievance hearing any Housing Authority documents, including records and regulations, directly relevant to the hearing. The tenant should be allowed to copy any such document at the tenant's expense. If the Housing Authority does not make a document available for examination after being asked to do so, the agency may not rely on the document at the hearing **and** may not proceed with an eviction.

Before any hearing, the tenant should review the tenant file and make copies of all relevant documents. This might include the lease, any written complaints, termination notices, payment reports, inspection reports, notes of conversations with agency staff, witness statements, and police records.

A public housing tenant also has the right to review prior hearing decisions in order to prepare the case.

What procedures govern the hearing?

The hearing should be an informal proceeding where both parties are given an opportunity to present their side of the dispute. Although the hearing should be informal, the public housing tenant does have the right to due process. The tenant has the right to be represented by legal counsel or another person of their choice or to represent himself or herself. The tenant has the right to a private hearing. Both sides have the right to present evidence, arguments, and witnesses to support their side of the dispute. They also have the right to refute evidence relied upon by the other side and to confront and cross-exam all witnesses. If a tenant is disabled, the Housing Authority must provide reasonable accommodations of the disability. For example, the agency may be required to provide a qualified interpreter and an accessible hearing room.

Although the hearing is not subject to the rules of evidence that apply to hearings in court, the hearing officer or panel must ensure that the tenant has an opportunity to confront and cross-examine all witnesses. This requirement should prevent the Housing Authority from relying on hearsay evidence (when one person tells what he or she heard someone else say) to prove its case, without giving the tenant a chance to confront and cross-examine the person who made the original statement. While the rules of evidence do not apply, the hearing officer or panel may take into account the type of evidence being offered in determining what weight to give it.

The hearing should be scheduled for a time and place that is reasonably convenient for both sides. The tenant should be given reasonable written notice specifying the time, place, and procedures governing the hearing. If a party fails to appear for the hearing, the hearing officer or panel may postpone the hearing for good cause or find that the party waived his or her right to the hearing.

What happens after the hearing?

The hearing officer or panel must prepare a written decision, together with the reasons for it, within a reasonable time after the hearing. The decision should state the specific facts presented that were the basis upon which the decision was made. The hearing officer or panel must make a decision based solely and exclusively upon the facts presented at the

hearing. They cannot rely on any documents or evidence that was not presented at the hearing.

The decision should be sent to the Housing Authority and public housing tenant.

This decision is binding on the Housing Authority unless the Board of Commissioners of the Housing Authority makes a formal determination that the decision is contrary to applicable Federal, State or local law, including HUD regulations or requirements of their contract with HUD. Regardless of the outcome of the hearing, a public housing tenant retains the right to contest the matter in court.

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