MARYLAND LANDLORD / TENANT LAWS AND PRACTICE TIPS

Statutes governing LL/T law are found in Maryland Real Property Section 8 (note- each jurisdiction may have their own local law that supersedes the state law).

- **8-401 = Failure to Pay Rent (FTPR)**
  - **Common Defenses**
    - ***T did not receive 10-day intent to file; or T did not opt into receiving it electronically 8-401(c) and 8-401(c)(2)(iii)***
      - Check date LL says gave Intent to file with the filing date on the complaint – must be more than 10 days
      - If LL checked box "first class mail" and T disputes receiving this notice, LL would need to provide the certificate of mailing.
    - ***Complaint is defective/incorrectly completed***
      - Amount and months of unpaid rent must be clearly alleged so as to put Tenant on notice.
      - LL did not include lead certification number or does not have a valid lead certificate.
        - Compliance is mandatory for all rental properties built prior to 1978.
        - To verify lead certification: Lead Property Rental Registry Search (state.md.us) or MD Dept of Environment: LEAD Rental Certification and Accreditation (maryland.gov)
    - ***Tenant disputes amount alleged***
      - Did T make a payment that is not reflected?
      - The amount on the complaint includes non-rent charges
        - Water/electricity/trash fees/pet fees, etc.
      - Did prior payments get applied to non-rent charges?
    - ***In jurisdictions where LLs must have a rental license, lack of this license prevents a LL from obtaining a judgment for FTPR.***
      - Baltimore City = Art. 13, 5-4
      - Baltimore County = County Code 35-6
      - Md. RP 8-406
    - ***Tenant no longer lives in the property***
      - FTPR is for possession, and if T no longer lives there, then LL has possession and the case should be dismissed.
    - ***Tenant is experiencing habitability issues due to conditions of the property***
      - 8-211(i) & 8-212 allows Ts to raise this as an affirmative defense in FTPR.
        - Note – often the court will require T to fund the escrow account with the entire amount listed on the FTPR in order to open a rent escrow case.
        - If a rent escrow is opened, the FTPR will be consolidated with the escrow case.
        - *Practice Tip – RESC is very jurisdiction specific. Baltimore City requires Code Enforcement officials to visit the*

property to determine whether there are threats; BaltCo does not, though a T can call 311 to have an inspector come out.

- **"No Right"** – this is shorthand for LL's foreclosure on T's right to redeem
  - After 3 FTPR (4 in Baltimore City) judgments in a 12-month period, LL may check line 9 on the complaint. The prior judgments must be listed.
    - Verify that the cases listed resulted in judgments – mistakes happen!
    - Many LLs will still allow a T to stay if they pay ALL amounts due on the ledger. *Practice Tip: If LL will not consider removing the no right, and T believes they can become current and want to stay in the property, try to get that stipulation as part of a consent judgment.*

- **8-208 = Landlords with 5 or more dwelling units for rent in the State must use a written lease**
  - 8-208(d)(3)(i) – late payment fee cannot exceed 5% of overdue amount

- **8-208.3 = Landlords must keep a ledger and a record of receipts for cash payments**

- **8-211 & 8-212 = Rent Escrow (RESC) and Warrant of Habitability**
  - Only for conditions that are a threat to T's life, health, or safety
    - 8-211(e) Enumerates conditions that rise to this level, but it is not limited to these defects.
    - T must provide LL notice of the conditions and a reasonable amount of time to make repairs before filing a RESC.
      - Written notice sent by certified mail
      - Actual Notice
      - Notice / Violation from county code enforcement
      - Repairs not made after 30 days from receipt of notice is considered presumptively unreasonable and T can file RESC.
        - Some conditions do not require 30 days to repair. (ie, active sewage leak, no water, no heat in winter, etc).
      - Ts with 3 prior judgments for FTPR in a 12-month period cannot file for RESC (relating to same property).
        - Baltimore City = 4 priors

- **8-402 = Tenant Holding Over (THO)**
  - When LL has given notice that they do not wish to renew the lease, yet T does not vacate at the end of the lease term
  - 60-day notice of non-renewal from LL is required

- **8-402.1 =Breach of Lease (BOL)**
  - This is when LL alleges that T breached the lease
  - There is a notice requirement
  - *Note – this is only for LLs. Ts cannot file this if LL does not meet their lease obligations*

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- **8-216 = Illegal and Constructive Eviciton**
  - **8-216(b)(1)** = No Eviction Without Court Order / Warrant of Restitution
  - **8-216(a)(1)** = Constructive eviction: LL cannot deprive tenant of essential services
  - **8-216(c)** = Remedies available under the statute

- **8-208.1 = Retaliation**
  - LLs may not bring or threaten to evict or raise rent just because a tenant asserts in good faith an alleged lease violation, condition of the property, or has participated in a tenant's rights organization.