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Landlord-Tenant Relationship

Landlord-Tenant Act [Sections 89-8-1 through 89-8-27, Miss. Code Ann.]

Despite the adverse impact of Hurricane Katrina on the Mississippi residential housing market, it is important for both landlords and tenants to realize that the law in this area remains unchanged. However, as long as we are under a State of Emergency, the price gouging statute prohibits landlords from increasing rents. Although the hurricane's effects may presently make them difficult to fulfill, both landlords and tenants have certain duties and responsibilities to one another, as follows:

1. Section 89-8-23: Landlord Duties

At all times during the tenancy, a landlord shall:

- (a) Provide residential dwelling unit to tenant.
- (b) Comply with building and housing codes materially affecting health and safety.
- (c) Unless deliberately or negligently damaged by the tenant, the dwelling unit and its plumbing, heating and/or cooling systems shall be maintained in the same condition as at the start of the lease.
- (d) Landlord has no duty to repair defects deliberately or negligently caused by the tenant. Landlord has no duty to repair defects resulting from a tenant's duties as outlined in Section 89-8-25.

2. Section 89-8-25: Tenant Duties

A tenant shall:

- (a) Pay rent according to the terms of the rental or lease agreement.
- (b) Keep the premises as clean and safe as the condition of the premises permits.
- (c) Dispose from the dwelling unit all ashes, garbage, and waste in a clean, safe manner.
- (d) Keep all plumbing fixtures in the dwelling unit as clean as their condition permits.
- (e) Use electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances, including elevators, in a reasonable manner.
- (f) Not deliberately or negligently destroy, damage, or remove any part of the premises or allow any other person to do so.
- (g) Not disturb his neighbor's peaceful enjoyment of their premises.
- (h) Inform the landlord of any condition which may cause damage to the premises.
- (i) Maintain the dwelling unit in the same condition (reasonable wear and tear expected) and comply with building and housing codes materially affecting health and safety.
- (j) Not engage in any illegal activity upon the leased premises.

3. Section 89-8-13: Termination of the Lease (both landlord and tenant)

Nonpayment of Rent: The most common material breach of a lease is the nonpayment of rent. If a tenant fails to pay the rent according to the terms of the rental agreement, the landlord, after giving the tenant 3 days written notice (Miss. Code Ann. Section 89-7-27), may terminate the lease. If the tenant remedies the breach by paying the rent within the 3 day notice period, the lease is not terminated. If the tenant

does not pay the rent within the 3 day notice period, the lease is terminated. However, if the tenant does not voluntarily leave, the landlord cannot simply remove the tenant and his belongings, the landlord must proceed to court and obtain his legal remedies through judicial process.

Other Material Breach: If a party (whether landlord or tenant) makes a material breach of the lease (or fails to fulfill his duties as a landlord or tenant as outlined in §§ 89-8-23, 89-8-25), the non-breaching party may end the tenancy or resort to any other legal remedy. The non-breaching party should respond to the breach in the following manner:

The non-breaching party may deliver a written notice to the party in breach specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than 30 days after receipt of the written notice if the breach is not remedied within a reasonable time not in excess of 30 days..

The lease shall terminate and the tenant shall surrender possession as provided in the notice subject to the following:

- (a) If the breach is remediable by repairs or the payment of damages and the breaching party adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.
- (b) If the same breach (of which written notice was given) occurs within 6 months of that initial notice, the nonbreaching party may terminate the lease upon at least 14 days written notice specifying the breach and the date of termination of the lease.
- (c) Neither party may end the tenancy for a condition caused by his own deliberate or negligent breach.

4. Section 89-8-15: Repair of Defect by Tenant

If, after 30 days of receipt of written notice, the landlord fails to repair a defect constituting a material breach of lease or duty, the tenant:

- may repair such defect himself; and
- shall be entitled to reimbursement of the repair costs within 45 days after submission to the landlord of receipted bills for such work, provided that:
 - the tenant has fulfilled his duties as a tenant as outlined in § 89-8-25;
 - the repair costs does not exceed an amount equal to one month's rent;
 - the tenant has not exercised this remedy within the preceding 6 months;
 - the tenant is current in his rental payments.

A tenant is not entitled to reimbursement for repair costs higher than the customary charge for such repairs. A tenant's repair costs may be offset against future rent.

5. Section 89-8-21: Tenant's Security Deposit

A landlord, by written notice to the tenant, may use only the amounts of a tenant's security deposit that are reasonably necessary to:

- remedy the tenant's defaults in rent payment
- repair damage (above ordinary wear and tear) to the premises caused by the tenant
- clean premises upon termination of tenancy

The written notice by which the landlord claims all or any portion of the security deposit shall itemize the amounts claimed. Any remaining portion of the security deposit shall be returned to the tenant at his request no later than 45 days after the ending the tenancy and leaving the premises. A landlord's retention of a tenant's security deposit in bad faith and in violation of this section may subject the landlord to damages up to \$200 in addition to any actual damages.