

GRIEVANCE PROCEDURE ROCKWOOD HOUSING AUTHORITY

1. Right To A Hearing

Upon filing of a written request as provided herein, a complainant shall be entitled to a hearing before an impartial official designated by the Board of Commissioners of Rockwood. Such official shall not be an employee of the RHC nor a tenant of the RHC.

2. Definitions

- A. Complainant is defined as any tenant whose rights, duties, welfare or status are or may be adversely affected by Management action or failure to act and who files a grievance or complaint with the Management with respect to such action or failure to act.
- B. Grievance or Complaint is defined as any dispute with respect to Management action or failure to act in accordance with lease requirements or any Management action or failure to act involving interpretation or application of the Management's regulations, policies or procedures which affects the right's duties, welfare or status of the complainant.

3. Procedure Prior To A Hearing

- A. Any grievance or complaint must be personally presented, if possible, to the Management Office, so that the grievance may be informally discussed and settled without a hearing. The grievance of complaint must be signed by the complainant and filed in the office by him or his representative within a reasonable time, not in excess of 10 days of the Management's action or failure to act which is the basis for the grievance. It may be simply stated but shall specify: (1) the particular ground(s) upon which it is based; and (2) the action requested.
- B. An answer in writing to each complaint, dated and signed by the project manager or other appropriate official, shall be delivered or mailed to the complainant within 10 days. The answer shall specify:
 - The proposed disposition of the complaint and the specified reasons therefore;
 - The right of the complainant to a hearing; and
 - The procedure by which a hearing may be obtained.
- C. If the complainant is dissatisfied with the proposed disposition of their complaint, as stated in the Management's answer, they may submit a written request to the Management Office for a hearing. This written request shall be made within a reasonable time of the date if the answer to their complaint (generally ten days.) This written request for a hearing must be date-stamped and filed in the Management Office along with a complaint and answer. Management shall promptly request the Board of Commissioners to appoint a Hearing Officer who shall schedule the hearing as promptly as possible for a date, time and place reasonably convenient to the complainant; and shall inform the complainant thereof in writing.
- D. If the complainant does not request a hearing within the time period allowed in Subsection C Above, they waive their rights to the hearing, and Management's proposed disposition of the grievance will become final. This shall not, however, constitute a waiver of the complainant's right thereafter to contest Management's disposition of his grievance in a appropriate judicial proceeding.

4. The Hearing

- A. The party shall be entitled to a fair hearing before the Hearing Official and may be represented by the counsel or other person chosen as a representative.

- B. The hearing shall be private unless complainant requests and the Hearing Official agrees to a public hearing. This shall not be construed to limit the attendance of persons with a valid interest in the proceeding.
- C. Complainant may examine before the hearing and, at his expense, copy all documents, records and regulations or the Management that are relevant to the hearing. Any document not made available, after request therefor by the complainant, may not be relied on by the Management at the hearing. The complainant may request, in advance and at their expense, a transcript of the hearing.
- D. If the dispute is over the amount of rent or other charges which Management claims are due, the complainant shall deposit the amount in dispute in an escrow account pending settlement of the dispute by the Hearing Official. If the complainant fails to do so, the Official may determine that the complainant has waived his right to the Hearing. Such determination shall not constitute a waiver of complainant's right to thereafter contest Management's disposition of their grievance in an appropriate judicial proceeding.
- E. If a complainant fails to appear at a Hearing, the Official may postpone the hearing for five working days, or may make a determination that the complainant has waived his right to the hearing. Such a determination shall not constitute a waiver of complainants right to thereafter contest Management's disposition of his grievance in an appropriate judicial proceeding.
- F. At the hearing the complainant must make a prima facie case and then the burden of proof is on the Management to justify the action or inaction proposed by it in its answer to the complaint. The complaint may present evidence and arguments in support of their complaint, controvert evidence relied on by Management, and confront and cross-examine all witnesses on whose testimony or information Management relies. Hearings conducted by the Hearing Official shall be informal, and any oral or documentary evidence, as limited however, to the facts and issues raised by the complaint and answer, may be received by the Hearing Official without regard to whether that evidence would be admissible under the rules of evidence employed in judicial proceedings.

5. Decisions of The Hearing Official

- A. The decisions of the Hearing Official shall be based solely and exclusively upon facts presented at the hearing and upon applicable Management and HUD regulations. To the extent that the decision is not inconsistent with State law, the United States Housing Act of 1937, as amended, HUD regulations and requirements promulgated thereunder, or the Annual Contributions Contract, and to the extent provided in subsection of below, the decision of the Hearing Official shall be binding on the Management.
- B. If both parties agree to prepare a proposed decision to the Hearing Official, each party shall submit same to the Hearing Official for his consideration.
- C. The Hearing Official shall prepare his written decision, including a statement of finding and conclusions; as well as the reasons or basis therefor, upon all materials issues raised by the parties. This shall be done within a reasonable time after the date of the hearing. Copies therefor shall be mailed or delivered to the parties and/or their representative.
- D. The written decision of the Hearing Official shall be maintained on file by the Management and made available for inspection by a prospective complainant or his representative.
- E. Any judicial decision or related settlement pertaining to the decision of the Hearing Official shall also be maintained on file by the Management and made available for inspection.
- F. If the decision is in favor of the complainant, the Management shall promptly take all actions necessary to carry out such decision or refrain from any action prohibited by such decision unless the Rockwood Housing Commission determines and notifies the complainant in writing within 30 days that the Hearing Official has acted arbitrarily or exceeded his authority. In such event the Hearing Official's decision may be judicially reviewed.

6. Appeals from the Hearing Official Decision

A decision by the Hearing Official, which is in favor of the Management and/or denies the complainant his requested relief in whole or in part, shall not constitute a waiver of, nor affect in any manner, whatever rights the complainant may have to a trial de novo in judicial proceedings which may thereafter be brought in the matter. In such judicial proceedings, the Management shall, by stipulation or other appropriate means, be limited to invoking against the complainant the grounds originally relied on by the Management in its proposed disposition of the complaint or grievance.

7. Notice to Vacate Premises

- A. At the time of private conference, the Tenant must be informed in writing of:
 - 1. The specific reasons for the proposed eviction; and
 - 2. Their right to request a hearing on the proposed eviction within five working days from the date of the conference.
- B. If the Tenant has requested a hearing on the proposed eviction and the Hearing Official by their decision upholds the Management's proposal to evict, an action to regain possession may not be commenced until after the Tenant's right to use and/or occupy the premises has been terminated by lawful notice. Such notice to vacate may not be given prior to the date on which the Hearing Official's decision upholding the proposed eviction is delivered or mailed to the Tenant.
- C. When such notice to vacate is given to the Tenant, they must be informed of the following:
 - 1. If they fail to quit the premises within three days, appropriate legal action (dependent on state law) will be brought against them;
 - 2. If suit is brought against them, they may be required to pay court costs and attorney fees incurred;
 - 3. If they choose to contest the legal action, Management must prove that the reasons upon which it originally relied constituted good cause for eviction under the applicable law, rules and regulations.