

THE LAW OFFICES OF
EARL P. WHITE PC

301 ROUTE 17 N, SUITE 800
RUTHERFORD, NJ 07070

TEL: (201) 389-8275
EPW@EARLWHITE.LAW

Seven Laws You Need to Know
When Selling Real Estate With a Tenant in New Jersey

#1 – Security Deposit Transfer After Closing

The Security Deposit Act deals specifically with the responsibility for a tenant's security deposit when leased premises are conveyed or acquired by foreclosure. A former landlord is relieved of the obligation to repay the security deposit to the tenant only if he turns over the deposit to the purchaser in conformity with N.J.S.A. 46:8-20, and the purchaser only assumes responsibility for repayment of the deposit after it receives the money from the former landlord. [Mauricio v. First Fid. Bank](#), A.2d 828, 829 (Super. Ct. App. Div. 2000).

N.J.S.A. 46:8-19. Security deposits; investment, deposit, disposition.

“Any person, whether the owner or lessee of the property leased, who or which has or hereafter shall have received from a tenant or licensee a sum of money as a deposit or advance of rental as security for the full performance by such tenant or licensee of the terms of his contract, lease or license agreement, or who or which has or shall have received the same from a former owner or lessee, shall, upon conveying such property or assigning his or its lease to another, or upon the conveyance of such property to another person by a court in an action to foreclose a mortgage thereon, at the time of the delivery of the deed or instrument of assignment, or within five days thereafter, or in the event of the insolvency or bankruptcy of the person receiving said deposit, within five days after the making and entry of an order of the court discharging the receiver or trustee, deal with the security deposit by turning over to his or its grantee or assignee, or to the purchaser at the foreclosure sale the sum so deposited, plus the tenant's portion of the interest or earnings accumulated thereon, and notify the tenant or licensee by registered or certified mail of such turning over and the name and address of such grantee, assignee or purchaser. Notwithstanding any other provision of law to the contrary, it shall be the duty and obligation of the grantee, assignee or purchaser to obtain from the grantor who is the owner or lessee at the time of the transfer, conveyance or purchase any and all security deposits, plus accrued interest on the deposits, that the owner or lessee received from a tenant, licensee or previous owner or lessee, and which deposits were invested, or should have been invested, in the manner required by section 1 of P.L. 1967, c. 265 (C. 46:8-19).”

#2 – Use and Return of Security Deposit After Lease Termination

The Security Deposit Act requires that within thirty days after the tenant moves out, the landlord either must return the security deposit with interest or give the tenant a complete list of damages the landlord claims the tenant did to the property. The landlord must also tell the tenant at that time how much it will cost to fix the damage the landlord claims the tenant caused. [Fischer v. Heck](#), 675 A.2d 254, 257 (Super. Ct. 1996).

N.J.S.A. 46:8-21.1. Return of deposit; displaced tenant; termination of lease; civil penalties, certain.

“Within 30 days after the termination of the tenant's lease or licensee's agreement, the owner or lessee shall return by personal delivery, registered or certified mail the sum so deposited plus the tenant's portion of the interest or earnings accumulated thereon, less any charges expended in accordance with

the terms of a contract, lease, or agreement, to the tenant or licensee, or, in the case of a lease terminated pursuant to P.L. 1971, c. 318 (C. 46:8-9.1), the executor or administrator of the estate of the tenant or licensee or the surviving spouse of the tenant or licensee so terminating the lease. The interest or earnings and any such deductions shall be itemized and the tenant, licensee, executor, administrator or surviving spouse notified thereof by personal delivery, registered or certified mail.”

#3 – Tenant Removal Due to Unit Being Required to be Vacant at Closing

N.J.S.A. 2A:18-61.1, commonly called the Anti-Eviction Act, prohibits removal of certain residential tenants without “good cause” as defined in the statute. Subsection (1)(3) provides that “good cause” for removal is established by a showing that:

“The owner of a building of three residential units or less seeks to personally occupy a unit, or has contracted to sell the residential unit to a buyer who wishes to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing. N.J.S.A. 2A:18-61.1(1)(3).”

#4 – Tenant Removal Due to Owner Intending to Personally Occupy

The Anti-Eviction Act also allows for “good cause” to remove a tenant if it is established that the owner intends to personally occupy the unit:

“The person has continued, after written notice to cease, to substantially violate or breach any of the landlord’s rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term.”

#5 – Tenant Removal Due to Breach of Written Lease

The Anti-Eviction Act also allows for “good cause” to remove a tenant due to repeated and substantial lease violations:

“The person has continued, after written notice to cease, to substantially violate or breach any of the landlord’s rules and regulations governing said premises, provided such rules and regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term.”

#6 – Tenant Hardship Stays

The Tenant Hardship Act authorizes the court having jurisdiction in the matter to stay a warrant of eviction for up to six months if it shall appear that by the issuance of the warrant or writ the tenant will suffer hardship because of the unavailability of other dwelling accommodations. A court may not issue or a stay if: (1) all rent arrearages plus court costs and current rent have not been paid; (2) the tenant is disorderly; (3) the tenant willfully damages the premises; or (4) the tenant fails to pay future rent as it becomes due. N.J.S.A. 2A:42-10.6. [Hous. Auth. of Morristown v. Little](#), 639 A.2d 286, 289 (1994).

N.J.S.A. 2A:42-10.16. Judge to use sound discretion in issuing warrants or writs for removal or writs of possession; stay of issuance; limitation.

“Notwithstanding any other provisions of law, in any action brought by a landlord against a tenant to recover possession of premises or unit used for dwelling purposes, to which this act is applicable, whether by summary dispossess proceedings, civil action for the possession of land, or otherwise, the judge of the court having jurisdiction shall use sound discretion in the issuance of a warrant or writ for removal or writ of possession, and if it shall appear that by the issuance of the warrant or writ the tenant will suffer hardship because of the unavailability of other dwelling accommodations the judge may stay the issuance of the warrant or writ and cause the same to issue at such time as he shall deem proper under the circumstances, but in no case shall such judge stay the issuance of any such warrant or writ for possession for a longer period than 6 months after the date of entry of the judgment of possession; provided, however, that in no case shall the issuance of the warrant or writ be stayed or the stay thereof be longer continued, as the case may be, if the tenant should (a) fail to pay to the landlord all arrears in rent and the amount that would have been payable as rent if the tenancy had continued, together with the accrued costs of the action; or (b) during the stay, fail to continue to pay to the landlord the amount of rent that would be due if the tenancy had continued; or (c) during the stay, become so disorderly as to destroy the peace and quiet of the other tenants living in the same building or in the neighborhood; or (d) during the stay, willfully destroy, damage or injure the premises.”

#7 – Month-to-Month Tenancy After Lease Expiration

If the tenant or landlord does not renew the lease and the lease was for a term of more than one month and the tenant holds over (stays after the expiration of the lease), the tenancy will become a month-to-month tenancy, if the landlord continues to accept the rent and there is no other agreement between the landlord and the tenant. [SDG v. Inventory Control](#), 178 N.J. Super. 411.

This tenancy is still subject to all the terms and conditions of the written lease other than its duration term. [Heyman v. Bishop](#), 15 N.J. Super. 266. If the landlord does not accept the rent and the lease has expired and the tenant has been given proper notice to quit, the tenant becomes guilty of unlawful detainer and may have to pay the landlord double the rent for as long as the tenant holds over. [Heyman v. Bishop](#), 15 N.J. Super. 266.

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