

# Landlord –Tenant Law

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In New Mexico

*What You Need to Know*

Uniform Owner-Resident Relations Act (UORRA) Changes in 2025

# Today's speakers

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# Information vs. Legal Advice

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**Today I will be providing general legal information;  
we cannot discuss specific matters (which would be legal advice).**

# Disclaimer

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Any opinions or views shared are those of the speaker and not their employer or their clients or the conference organizer

If you cannot afford to hire a lawyer to receive private legal advice, please contact the lawyer of your choice to ask for free legal advice.

See info on free legal resources on slide at end of presentation

# New state laws, June 20, 2025

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**Late fee** reduced from **10%** to **5%** of rent

- See: 47-8-15 NMSA 1978

**Written Disclosure of all costs** (in plain language), must be published **in the rental listing** (rent, fees, insurance, utilities, etc.)

All fees must be listed in the lease

Please amend your lease agreements to reflect the changes in state law

# applicant screening fee law

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screening fee limited to **\$50** a person

Owner can only charge fee if unit is available, or will be the beginning of residency

Must provide receipt for fee payment

Owner shall refund the fee within 30 days to applicant, if the unit is leased to a prior applicant

- See 47-8-19.2 NMSA 1978

# Penalty of \$250 for unauthorized screening fee

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A. Applicant/resident can sue owner, and if they prevail in court, win award of attorney fees and court costs

B. An owner who charges an unauthorized screening fee shall be liable for \$250 and shall return all fees paid by the applicant.

- 47-8-48 NMSA 1978, section B

# Two Months (60 days) Advance Notice of Fee Increase

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Must provide **two** months (60 days) advance notice in writing to residents for all increases in fees

- Parking, storage, utility, pet, repairs, insurance, etc.

Fees do not include: **rent**

Only 30 days advance notice (one month) needed for **rent** price increase

Only change amounts when lease ends



# Overview of Common Violations of Lease

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- Failure to Pay Rent
- Failure to Pay Work Order Charge – damages
- Failure to move out when lease is not renewed
- Substantial Violations (felony crimes)

# State of NM Housing Law

## ■ Uniform **Owner-Resident** Relations Act (UORRA)

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(see: NMSA 1978, section 47-8-1 to 47-8-52)

- [www.NMonesource.com](http://www.NMonesource.com)

Applies to:

- Apartments & Townhouses
- Single Family Homes
- Mobile Homes
- Hotels/Motels leased as long term Residences

Includes:

- Landlord (Owner) AND Tenant (Resident) responsibilities and rights
- Remedies for common owner-resident problems
- Defines Penalties for non-compliance

# 3 Day Notice of Nonpayment

Owner should give to Resident when **rent is past due**

- Resident has three (3) full days to pay past due rent and late fees, to cure the violation
  - NOTE: If 3<sup>rd</sup> day falls on Sat. or Sun. or bank holiday, tenant has until end of next day to make payment
- **If Resident pays within 3 days, lease continues**
- If Resident does not pay within 3 days, Owner can file Petition for Restitution in metropolitan or magistrate court, starting on day 4.
  - \*Owner still MUST get a court order after proper notice has been served (if Resident doesn't voluntarily move out or pay rent debt in full).

# Drafting a 3 day notice

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List the amount of:

- Rent past due (not including current month)
- Rent due for current month
- Late Fee (NM law limits claim for late fee to current month and prior month)
  - Late fee now limited in 2025 to just 5% percent of monthly rent

List the format of payment you will accept (example: *no* cash)

- Best practice: Pay rent with: Money Order or Cashier Check
- Best Practice: Pay online (list the website) or by phone
- List the method & date of service of notice
  - Mailed by and Posted by (name) on \_\_\_\_ date
  - Best practice: use certified mail

# 30 days to cure for CARES Act

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If HUD funded (PBRA, Section 202/811, Section 8 HCV or PBV, etc.),  
“VAWA *covered property*”

- Then CARES Act requires that low income, HUD funded resident gets 30 days (not just 3) to cure their failure to pay rent to owner
- See 24 CFR Parts 247, 880, 884, 886, 891
- CARES Act is a federal law, that supersedes NM state law (UORRA) that only requires 3 days to cure, for failure to pay rent

# Serve a 3 day notice for rent

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Hand notice to the resident at home

- Ask resident to sign a 2<sup>nd</sup> copy to acknowledge delivery of the notice to them

Post on front door of residence

- tape down paper on all four sides, **facing out**
- Take a photo of the notice of lease violation, posted on front door

Send Notice to tenant by U.S. Mail

- Best practice: Use Certified U.S. Mail, return receipt requested (so that tenant has to sign for it)

# Seven Day Notice of Noncompliance with Rental Agreement

Owner can give to resident when there  
is a material non-compliance with lease:

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## ☐ 1. First Notice

- If resident corrects the problem within 7 days, lease continues (violation cured)

## ☐ 2. Second Notice

- If resident has another non-compliance (for any reason) within 6 months, lease may terminate within 7 days

\*Owner still MUST get a court order after proper notices have been served (if Resident doesn't voluntarily move out, or denies violating the lease twice in less than six months).

# When to issue a 7 day notice?

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For causing a disturbance of the peace (loud noise, fight)

For violation of smoking policy or for misdemeanor crime at unit

Failure to pay work order charges

- Resident fails to pay bill for broken window repair

Failure to pay utility charge(s)

- Tenant moved in, and failed to put electric bill or gas bill or water bill into tenant name

Unauthorized resident, or pet violation, or parking violation

- Boyfriend moves in, not listed on lease as co-tenant, resident claims he is just visiting



# get admissible evidence

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Get the unhappy neighbors to testify at trial against the Resident – testify about seeing the problem at the rental unit

Issue a subpoena to witness – then pay a witness fee of \$95 a day to attend court

# Photos of lease violation

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Take photos of the conduct that violates the lease

Email the photo to save the date of image

Have the photographer testify as witness at court hearing about where the photo was taken and what they saw and or smelled or heard

Take a photo of street address of rental unit and the apartment number sign

# Non-Renewal of Lease

For a month-to-month tenancy, LL or tenant can end lease by giving written notice 30 days before the rent is next due (one full month)

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No reason is required or given

Convenience is adequate reason to end lease.

Owner: Do not give tenant a reason if they ask for one

Tenant on private property has no right to cure a lease expiring

Exception: Residents of *Low Income Housing Tax Credit (LIHTC)* unit or a government owned Public Housing unit can only be terminated for *good cause* (not for convenience of landlord) – *LIHTC residents have a legal right to renew* their lease

# Timeline for serving 30 day notice of non-renewal of lease

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If notice is not given a FULL 30 days before rent is next due, notice will not be valid until the *next* rental period

- Example: Owner gives Resident notice on May 10 for Resident who pays rent on 1<sup>st</sup> of month. Notice not valid to make Resident move by May 31, but is valid to make Resident move out by June 30.
- Example: Owner gives Resident notice on Sept. 1 for Resident who pays rent on 1<sup>st</sup> of month. Notice not valid to make tenant move by September 30, but is valid to make tenant move by October 31<sup>st</sup>.
- Must give one *full* month advance notice

# Three-Day Notice of Substantial Violation of Rental Agreement

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Owner can give to Resident for a tightly limited category of 7 very serious criminal acts

➤ Lease terminates after just 3 calendar days

➤ Resident has No right to cure the violation

\* Owner still **MUST** get a court order after proper notice has been given (if Resident doesn't voluntarily move out or disagrees about validity of notice).

# What is a Substantial Violation?

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T. "substantial violation" means a violation of the rental agreement or rules and regulations

by the resident or occurring with the resident's consent

that occurs in the dwelling unit, on the premises or within three hundred feet of the premises

and that includes the following conduct, which shall be the sole grounds for a substantial violation:

# List of Substantial Violations

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- (1) possession, use, sale, distribution or manufacture of a controlled substance, excluding misdemeanor possession and use;
- (2) unlawful use of a deadly weapon;
- (3) unlawful action causing serious physical harm to another person;
- (4) sexual assault or sexual molestation of another person;
- (5) entry into the dwelling unit or vehicle of another person without that person's permission and with intent to commit theft or assault;
- (6) theft or attempted theft of the property of another person by use or threatened use of force; or
- (7) intentional or reckless damage to property in excess of one thousand dollars (\$1,000);

# Common reasons for 3 day

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Felony drug crimes (dealer, maker) at the rental unit

Illegal gun fire at rental unit

Battery causing great bodily harm (GBH) at rental unit

Rape

Burglary of neighboring unit or parked car at the apartment community

Theft of car or armed robbery of neighbor

Tenant causes more than \$1,000 in damages

*Example: gets drunk, high, triggers a fire in unit, breaks sprinklers, left water tap open*



# Abatement of Rent

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When an Owner fails to make repairs, Resident can:

1. Serve 7 day *written* notice of abatement, with right to cure.
2. Notice needs to identify conditions needing repair by owner (*example: fix water leak in bathroom*).
3. Best practice: Notice says that Resident will abate rent to owner if repair is not completed in 7 days.
4. Owner cures by remedying the condition, in 7 days or less.
5. Only applies for issues that impair habitability of unit (no abatement of rent for purely cosmetic issues)

# Abatement continued

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If ,after 7 days, Owner has not made requested repairs, then Resident can **withhold a portion** of the rent, if they are still living in the unit.

- A. Abatement only if owner does not cure within 7 days.
- B. 1/3 of the **daily rent amount** for each day from 1<sup>st</sup> day of 7 day notice to Owner.
- C. If unit is uninhabitable (example: no heat, no power, no water or sewer) and Resident does **not inhabit** the unit, then abate **100% rent for each day** from 1<sup>st</sup> day of 7 day notice of abatement, until the repair is completed
- D. Example: Rental unit lacks electricity for lack of repair by owner. The resident issues a 7 day notice of abatement, and breaks the 12 month lease and permanently moves out of unit after a week to live elsewhere. The former resident owes no more rent to owner, and the Resident does not owe an *Early Termination of lease* fee.
- E. In **subsidized units**, abatement is based on **total contract** rent (including subsidy).

# Eviction/Lockout

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- Owner **MUST** have a written court order
  - Judgment for Restitution, followed by
  - Writ of Restitution to have Deputy Sheriff go evict the Resident
- Lockouts without a court order are **ILLEGAL**.
- Illegal lockout, actual or threat (didn't get a court order)
  - possible penalty of 2X monthly rent, plus: resident's attorney fee and court costs.
- Lockout = changed locks or diminished services (such as turning off water, heat, electricity, etc.).

# Going to Court

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- Metropolitan or Magistrate Court
  - if < \$10,000 (aka “small claims court”)
- Representing yourself in court
  - It can be done – most Owners appear pro se in front of Metro Court judges for LL/T issues
  - Excellent brochures and sample forms for small claims court at Bernalillo County Metropolitan Court website: <https://metro.nmcourts.gov/>
  - **Go to the hearing!! Need to arrive early**  
If you don't appear → you lose

# Going to Court

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File a Petition by Owner for Restitution at the Bernalillo County Metropolitan Court

at 401 Lomas Blvd NW, ABQ

If rental unit is outside of Bernalillo County, then file the Petition for Restitution in the local *Magistrate* Court for that **county**

Note: cannot file case in Municipal Court

# Pay a filing fee to court

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Pay \$77 filing fee to Metro Court Clerk to start the lawsuit

Pay to park in Metro Court parking garage

(some hearings currently on zoom, read the notice)

# Options for serving Summons

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Pay \$40 service of process fee to Sheriff's Department to have a Deputy serve the Civil Summons and Notice of Hearing to tenant at the rental unit and mail it to them

Or pay a private process server company to serve the notice to unit (post it) and then mail it to tenant (more than \$40, and it gets done faster than using BCSD Deputy)

# No cell phones allowed inside

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Metro Court prohibits cell phones inside the courthouse, for members of public

No digital cameras

No smart watches, fit bits

- Exception for NM licensed attorneys



# Print out your photos for use as evidence

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If you plan to use photos of the rental unit at trial (example: water leak) – you need to print them out in advance,  
and send copy to other side of the case, prior to hearing

Can email proposed exhibits to  
[metrpleadings@nmcourts.gov](mailto:metrpleadings@nmcourts.gov)

# Before your hearing

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File a written request for an interpreter

- if you need a sign language interpreter (ASL)
- Or an English to Spanish interpreter
- No fee for interpreter service

Resident: should file a written **Answer** form

- Tell the Court your response to what the Owner wrote in the Petition (admit or deny)
- Resident must give Owner a copy of **Answer**

# During the hearing

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Owner speaks 1<sup>st</sup>

- Owner has the burden of proof
- Judge needs copy of signed lease agreement
- And: Notice(s) of Violation
- And: needs copy of evidence of violation

Resident speaks 2<sup>nd</sup>

- Judge needs to hear defenses, show proof

Court issues a written decision

# After the hearing

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If Owner wins,

- Court issues a Judgment for Restitution (a written order to move out in 3 to 7 days) and an *order to pay debt* owed to landlord

Failure to move out by deadline on order

- Landlord must wait in line to visit Court Clerk to obtain a Writ of Restitution
- Then landlord carries to Writ to Sheriff's office and pay \$40 fee to have Sheriff serve the Writ

# Writ of Restitution served

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Bernalillo County Sheriff's Department sends a Deputy Sheriff to the rental unit to personally serve the Writ of Restitution to the tenant (*allow up to 30 days for arrival*)

BCSD will physically evict the tenant from the rental unit based on the Writ from court

*Only after Writ is served* by BCSD can the Owner legally change locks to exclude the former tenant from rental unit

# Personal Property left in unit

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The evicted former resident has just 3 business days to remove all personal property left behind in the rental unit

Landlord must open the locked door of rental unit to allow the evicted former resident access to their stuff

Access to locked unit by appointment only

Landlord lien is prohibited by NM law

# 3 days after Writ is served

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All personal property left behind in rental unit can be thrown away as trash

Owner can charge the Resident for cost of cleaning out rental unit and repair of resident caused damages (exceeding normal wear and tear)

Owner can charge the damage deposit for Judgment debt owed to Owner

# Appeal rights

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Either the Owner or the Resident can choose to appeal a court order

Appeal from Metro/Magistrate Court to District Court

Quick Deadlines apply (like 3 to 7 days)

Notice of Appeal must be filed in both courts, and a copy sent to other parties

Appeal triggers a new trial in District Court



# Tips While Leasing

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- Get changes and agreements in writing
- use lease addendum forms to:
  - add resident or remove a resident,
  - change amount of rent, or utility obligations
  - add or remove a pet or service animal
- Address problems promptly and in writing.
- Keep copies of communications and take photos of notices posted on door of rental unit.

# Tips on move out inspections

## ■ Do a move-out walk-through:

- Document condition of every room in writing and keep a copy – send to former tenant
- Take date stamped pictures of all damages
- send **deposit disposition statement** to former resident **in less than 30 days from the date of move out** – charge ex-tenant for damages

## Residents:

- Return all door and gate keys, garage door and gate remote controls
- provide your new forwarding address to your former Landlord for deposit refund check to be sent out in 30 days or less after moving out
- Best practice: if you do not yet have a new home mailing address, get the mail sent to your trusted parent's or sibling's house or your office at work

# Free Resources

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- Law Help NM - FREE NM telephone hotline
  - Statewide: **833-LGL-HELP** ([833-545-4357](tel:833-545-4357))
  - **New Mexico Renter's Guide**: a free handbook online for landlords (owners) and tenants (residents)  
[www.lawhelpnewmexico.org](http://www.lawhelpnewmexico.org)
- State Bar of NM *Modest Means Helpline*
  - 505-797-6013 (for people not eligible for NM Legal Aid)
  - **Legal Resources for Elderly** 505-797-6005 for any one living in NM age 55 plus of *any* income level (landlord or tenant) – no income limit
  - See <https://www.sbnm.org/For-Public/Legal-Resources-for-the-Elderly>

# New Mexico Legal Aid

FREE telephone hotline in New Mexico

Call Statewide:

**1-833-LGL-HELP**

Monday – Thursday

10 AM-3 PM

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(intake phone line closed on Fridays)

Or apply online anytime

<https://www.newmexicolegalaid.org/>

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Questions?

