



Presented: June 17, 2025

# Domestic Violence 201: Housing Rights, Resources, and Protections for Survivors in Delaware



1



## GROUND RULES

- We are recording for future viewing;
- Please remain on mute unless asking a question;
- Please ask your questions in the chat box;
- Please do not ask case-specific questions and do not provide any client-identifying information;
- This is not individual legal advice;
- This information is Delaware-specific; and
- Information is effective as of 06/17/2025.

2



COMMUNITY LEGAL AID SOCIETY, INC.

**CLASI is a private, non-profit law firm dedicated to providing equal justice since 1946. We provide free civil legal services to help Delawareans become safe and self-sufficient.**

3

### **CLASI's Mission**

Combat injustice through civil legal advocacy on behalf of vulnerable & underserved Delawareans via:

- Individual Representation
- Community Education
- Policy work

4

### New Castle County

- Community Service Building – Wilmington

### Kent County

- 840 Walker Road – Dover

### Sussex County

- Georgetown Professional Park - Georgetown

## CLASI's Offices

## Overview of Presentation

- Delaware Landlord-Tenant Law
- Subsidized Housing Basics
- Housing Discrimination
- Housing Protections for Survivors of Domestic Violence and Sexual Assault
- Utility Basics
- Resources
- Interactive discussion: Hypotheticals

## Delaware Landlord-Tenant Law



7

### Delaware Landlord-Tenant Basics

#### Life cycle of renting

- Finding a place to live
- Forming a lease / Landlord-Tenant Relationship
- Living under the lease
- Handling housing problems – during, and at the end of, the lease

8

### Top three pieces of advice for renting:

- Get it in writing, and put it in writing;
- Keep all agreements, notices, and receipts; and
- Only a judge can evict you or put you out of the unit.
- Bonus advice: do not take legal advice from your landlord!

## Delaware Landlord-Tenant Basics

### Finding a rental unit:

## Delaware Landlord-Tenant Basics

- Reliable / considerate
  - Landlord
  - Tenants
  - Neighbors
- Safety – Injury, illness, crime
- Conditions – inside, outside, surroundings
- Affordability
- Size of unit versus number of tenants/inhabitants
- Renting after a walk-through or personal knowledge

## Types of Residential Leases

### Oral Lease

- Unwise
  - Intentions?
  - Expectations?
  - Protections?

### Written Lease

- Annual
- Month-to-month
- Lease to buy
- Renewed or created by operation of law
  - Month-to-month

## Delaware Landlord-Tenant Basics

## Legitimate Landlord Concerns

## Delaware Landlord-Tenant Basics

- Pays rent on time
  - Faithful, timely payment of rent
  - Payment of deposits / Utilities
- Responsible Tenant
  - Careful use of the property
  - Does not disturb others
- Sources of Information
  - Credit record
  - Employment history
  - References, rental history, eviction history

## Illegitimate Landlord Practices

- Impermissible Charges
  - Security Deposit in excess of one month's rent
  - Charging for utilities not separately metered or in excess of actual usage
  - Charging a security deposit for emotional/disability support animals
- Retaliatory Acts
  - Dispossessing the tenant
  - Raising rent or reducing services in response to complaints regarding conditions of the rental unit

## Delaware Landlord-Tenant Basics

13

## Delaware Landlord-Tenant Basics

## Maintaining a Lease – Lease Describes

- Obligations and responsibilities
  - Landlord – conditions; reasonable entry
  - Tenant – rent; conditions; reasonable entry
- Rights
  - Landlord – rent; told of needed maintenance/repairs
  - Tenant – quiet enjoyment; maintenance/repairs handled promptly
- Remedies
  - Landlord – late fees; security deposit; eviction
  - Tenant – rent adjustment or withholding; early termination

14

## Lease is Supported by & Subject to:

- Delaware Landlord Tenant Code (Title 25)
  - Section 5100 – Mutual Rights & Obligations
  - Section 5300 – Landlord Obligations & Tenant Remedies
  - Section 5500 – Tenant Obligations & Landlord Remedies
  - Section 5600 – Tenant Right to Representation
  - Section 5700 – Justice of the Peace Court enforcement
- State and Local Housing Codes
  - State
  - City
  - County

## Delaware Landlord-Tenant Basics

15

## Tenant Obligations

- Rent paid to the landlord
  - Usually due the first of each month
    - Late on the second
    - Late fee on the sixth
- Notify landlord of needed repairs
- Prevent damage, noise, and crime
- Allow reasonable landlord access
- Check lease for other obligations, such as:
  - Late fees
  - Utilities
  - New/changed locks

## Delaware Landlord-Tenant Basics

16



## Landlord Obligations

- Repair and maintain
  - Premises
  - Common areas
- Utilities – check the lease
  - Separate metering
  - Cannot exceed actual usage cost
- Ordinary wear and tear
- Reasonable access versus quiet enjoyment
  - Tenant entitled to 48 hour notice, subject to:
    - Emergency situations
    - Tenant repair requests

## Delaware Landlord-Tenant Basics

17

## Tenant's Right to Early Termination

## Delaware Landlord-Tenant Basics

- Upon 30 days' written notice
  - 30-day period begins on the first day of the month following the day of actual notice
- The tenancy may be terminated by:
  - The surviving spouse or personal representative of the estate of the tenant, upon the death of the tenant.

18

## Reasons for tenant's right to early termination:

- Tenant is accepted for admission into subsidized housing by a governmental entity or by a private nonprofit corporation, or a senior citizens' housing facility;
- The tenant is in the military and is placed on active duty;
- *The tenant is a survivor of DV, SA, or stalking, and has obtained or is seeking relief from DV or abuse from any court, police agency, or DV/SA program or service;*
- Change in location of the tenant's current employment at present employer in excess of 30 miles;
- Serious illness of the tenant, or death/serious illness of a member of the tenant's immediate family requires a permanent change in the location of tenant's residence

## Delaware Landlord-Tenant Basics

## Reasons for a Landlord to Evict a Tenant

- Rental term is over / non-renewal of the lease;
- Tenant is behind in rent;
- Tenant breached a clause of the lease.

## Delaware Landlord-Tenant Basics

## Eviction Process

- Eviction Notice
  - Written, stating
    - Reason
    - Date landlord wants tenant to leave
      - Fail to pay rent = 5 days to correct
      - Rule violation = 7 days to correct
      - Non-renewal = 60 days
- Complaint
  - Filed with the JP Court
  - When and where eviction hearing held
  - Copy posted, copy mailed

## Delaware Landlord-Tenant Basics

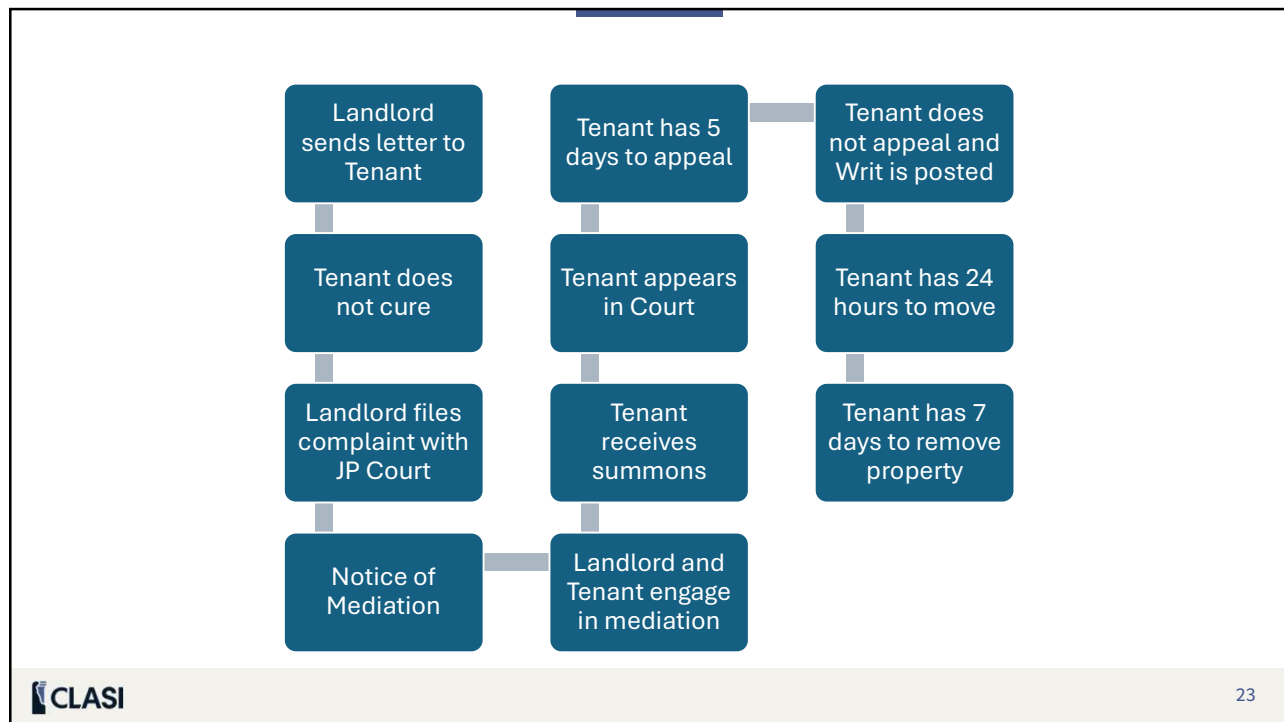
21

## Eviction Process (Cont'd)

## Delaware Landlord-Tenant Basics

- Mediation
- Hearing
  - If there was a trial, 5 business days to appeal
  - If a default judgment is entered, tenant has 10 calendar days to file a motion to vacate default judgment
- Writ
  - If landlord wins after the appeal period has passed, landlord can ask constable to give tenant a 24 hour eviction order

22



23

## Unlawful Ouster or Exclusion

- If removed or excluded from premises by landlord or landlord's agent, except under a valid court order, the tenant may:
  - Recover possession or terminate the rental agreement
  - Recover monetary damages

### Delaware Landlord-Tenant Basics

CLASI 24

24

## Delaware Landlord-Tenant Basics

### Unlawful Ouster or Exclusion

- Illegal to
  - Lock out
  - Changing the locks
  - Shutting off utilities

## Delaware Landlord-Tenant Basics

### Security Deposits

- Must be written or oral agreement establishing amount
- If lease term is 1 year, landlord cannot collect a deposit in excess of one month's rent
- Application fee versus security deposit
- Return of deposit
  - Tenant provides landlord with mailing address
  - Landlord has 20 days to mail list of damages and detailed costs or return deposit
  - Tenant has 10 days to respond to list of damages
  - Tenant has 1 year to file an action in JP Court seeking return of the security deposit

## Subsidized Housing Basics



27

### Types

- Voucher based subsidy
  - Private landlord leases property
  - Subsidy based on tenant income
  - Subsidy moves with the tenant
- Project based
  - Private landlord leases property
  - Subsidy based on tenant income
  - Subsidy stays with rental unit
- Public housing
  - PHA owns/operates property
  - Subsidy based on tenant income
  - Subsidy stays with rental unit
- Low-income tax credit
  - Private landlord leases property
  - Rent uniform but reduced from market rate


## Subsidized Housing Basics

28

## Subsidized Housing Basics

## Procedures and Rules

- Federally subsidized housing is subject to HUD regulations and rules
  - If conflict between federal rule and Delaware LLT code, federal rule prevails
  - Additional notice requirements
  - Grievance Procedures
- Rental amount adjustment governed by HUD process
- Termination of lease by landlord can only be for cause (except Section 8 Housing Choice Vouchers)
- File access requirements


29

29

## Federal & State Fair Housing






30

- Federal Fair Housing Act
  - Race
  - National Origin
  - Color
  - Sex
  - Religion
  - Familial Status
  - Disability
- Delaware Fair Housing Act
  - Creed
  - Marital Status
  - Sexual orientation
  - Gender Identity
  - Source of income

**Fair Housing**

 CLASI


31

31

**Fair Housing**

**Spotting Fair Housing Issues:**

- Discrimination
- Reasonable Accommodation
- Reasonable Modification

 CLASI

32

32



## Prohibited Discrimination

- Transactions covered
  - Rental
  - Conditions
  - Sales
  - Mortgage lending
  - Homeowners insurance
  - Advertising

## Fair Housing



33

33

## Permissible

- Fair Housing Act does not guarantee any person right to housing they cannot afford
- Property owners may set rents at whatever market will bear (subject to HUD regulations for subsidized housing)
- Agent or property owner not required to rent to users and dealers of illegal drugs, registered sex offenders

## Fair Housing



34

34

## Reasonable Accommodations

- Changes in
  - Rules;
  - Policies;
  - Practices; or
  - Services
- Necessary for a person with a disability to have equal opportunity to use and enjoy housing

**Fair Housing**

35

## Animals: Reasonable Accommodation

**Fair Housing**

- Service animals:
  - ADA language/definition for a dog that is specifically trained to assist a PWD
- Assistance animal/emotional support animal
  - Any animal that works, provides assistance, or performs tasks for the benefit of a PWD, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability.
- No requirement for individual or certified training

36

## Reasonable Modification

- Change in the physical structure necessary for a person with a disability to have an equal opportunity to use and enjoy the housing
- Modifications are made at the expense of the person requesting the modification (unless federally-funded)
- Removal of modification is at the expense of the person on whose behalf the modification was made when the person permanently leaves the dwelling

## Fair Housing

37

## Exemptions

## Fair Housing

- Religious organizations & private clubs can restrict sale/rental to own members so long as not on basis of race, color, national origin.
- Sale/rental single family home by owner not using agent/realtor/property manager
- Owner-occupied rental unit where building contains 4 or less units
- Elderly housing
  - Can deny housing based on familial status if 100% occupants 62+ or 80% units have one occupant 55+

38

## Relief & Remedies

- Complaint with DHR or HUD within 1 year.
- Court within 2 years.
- Money damages, including punitive, attorneys fees, and injunctive relief.

**Fair Housing**

## Housing Protection for Survivors of Domestic Violence & Sexual Assault

## Survivor Protections

- Violence Against Women Act
- Federal Fair Housing Act
- Delaware Fair Housing Act
- Americans with Disabilities Act
- Delaware Landlord Tenant Code

41

## Violence Against Women Act

- Preliminary questions of the survivor:
  - Do you live in federally subsidized housing?
    - Rent is determined by income
    - Housing that has income thresholds
    - Housing paid for in part with assistance from a voucher or third party agency
- If the survivor is in subsidized housing, it triggers additional protections under VAWA


## Survivor Protections

42

## Survivor Protections

## Violence Against Women Act

- Survivor status is not appropriate basis for denial of admission, assistance, eviction, or termination.
- Actual or threatened criminal activity directly relating to DV, SA, or stalking does not constitute grounds for terminating assistance, tenancy, or occupancy rights
- An abuser's acts of DV, SA, or stalking cannot be considered a "serious or repeated" lease violation, or "good cause" for evicting or terminating assistance to the survivor or an affiliated individual.



43

43

## Violence Against Women Act

- Bifurcation: If Abuser was voucher holder or leaseholder, then the survivor has the right to have a reasonable time to try and qualify for that subsidy without the abuser, or a reasonable time to find new housing.
- With vouchers, a survivor should be able to move upon asking to move so long as the survivor "reasonably" believes they are at risk to be harmed, or if the survivor was sexually assaulted on the property within the 90 days leading up to the request to move.
- Confidentiality

## Survivor Protections



44

44

## Survivor Protections

## Fair Housing Act

- Federal and State Fair Housing Acts apply to Delaware survivors.
- Fair Housing Act prohibits discrimination based on:
  - Race, National Origin, Color, **Sex**, Religion
  - Familial Status and Disability
  - Delaware Fair Housing Act includes all Federal classes.
- “Survivor status” is not a listed protected class, but:
  - Survivors are statistically female.
  - The FHA prohibits discrimination based on sex/gender.



45

45

## Fair Housing Act

- Reasonable accommodations / modifications as applied to survivor situations
  - In Federally subsidized housing the FHA imposes greater obligations to provide accommodations and in some cases to pay for modifications.

## Survivor Protections



46

46

## Survivor Protections

## Delaware Landlord Tenant Code

- Within 90 days of an incident of DV, SA, or Stalking, a landlord may not:
  - Pursue any action for summary possession;
  - Demand any increase in rent;
  - Decrease any services; or
  - Otherwise cause a tenant to leave a rental unit
- Where the tenant is
  - A victim of domestic abuse, sexual offenses, or stalking; and
  - Where the tenant has obtained or has sought assistance for DV, SA, or stalking.



47

47

## Delaware Landlord Tenant Code

- Early lease termination
  - A tenant that is a victim of DV, SA, or stalking, or a tenant who has obtained or is seeking relief from domestic violence or abuse from any court, police agency, or domestic violence program, may terminate tenancy with 30 full days' actual written notice to the landlord.

## Survivor Protections


48


48



## Survivor Protections

### Summary


- Survivors have the right to:
  - Equal treatment in lease terms
  - Equal treatment in housing admissions
  - Be protected from eviction or termination of subsidy based on incidents related to the abuse/assault
  - Call the police and get help
  - Confidentiality
  - Request a reasonable accommodation for symptoms that substantially impact ability to complete daily tasks arising from the abuse/assault.

CLASI

49

49

## Utility Basics



50

## Shut Offs

- To terminate/shut off service for amounts owed, utility providers must give
  - Written notice
  - 14 days calendar days
- In the *heating season*, the utility provider must also make at least 2 attempts on different days to contact the consumer by telephone prior to termination.
  - One attempt shall be after 6:00 p.m.
- In the *cooling season*, the utility provider must make at least 1 attempt to contact the consumer by telephone prior to termination.

## Utility Basics

51

## Shut Offs

The written notices must contain:

- Date on/after which termination will happen;
- Consumer can avoid termination by entering into a repayment agreement or installment plan;
- Charitable / governmental resources the consumer can contact for assistance;
- Termination will not go forward if consumer has a good faith dispute about bill; and
- Availability of medical certification

## Utility Basics

52

## Medical Certification Forms

- The utility company is not allowed to terminate service to the consumer's home if:
  - Someone in the home is so ill that the termination will adversely affect that person's health or recovery; **AND**
  - A licensed Delaware duly licensed physician, physician assistant or advanced nurse practitioner has **certified that this is the case in a signed statement; AND**
  - The **utility company has received this statement.**

## Utility Basics

## Resources

## Resources - Representation

- Free legal assistance for Delaware tenants facing eviction and loss of subsidized housing
- Contact centralized intake right away
  - Link/web
  - Call (M-F 8a-9p)
    - 211
    - 800-560-3372



## Resources

- Court Materials for litigants



## Resources

- Civil Case Search



57

## Resources

- Delaware DOJ Landlord-Tenant Code Summary for Tenants



58



## Resources

- Centralized waiting list / application for subsidized housing

## Hypothetical & Interactive Discussion



## HYPOTHETICAL #1


### Jane

Jane and her partner are living in an apartment owned by partner's family.

Over the course of several months, Jane and her partner fell behind in the utilities.

Partner assaulted Jane and she called the police; partner was arrested and ordered to have no contact with Jane or the address while their charges are pending.

Partner's family files to evict Jane for "causing problems" and not paying the utilities.


61


61

### Jane

What issues are raised?

How do you approach it?

## HYPOTHETICAL #1


62

62

## HYPOTHETICAL #2


### Rhonda

Rhonda and her spouse live in Public Housing.

Spouse has lived there for most of their adult life, and recently added Rhonda to the lease.

Rhonda recently obtained a Protection From Abuse order against spouse, and provided a copy to the PHA.

PHA Manager told Rhonda to “work it out” with spouse or she will have to leave.


63


63

### Rhonda

What issues are raised?

How do you approach it?

## HYPOTHETICAL #2


64

64



## HYPOTHETICAL #3


### Tina

Tina rents an apartment, and is midway through her lease.

Tina's recent dating partner has engaged in stalking, and has been following Tina near her apartment, and appearing near her apartment at random times.

Tina is planning to file for a Protection From Abuse order, but has not yet. She would like to move to a new, confidential address for safety reasons.

Her landlord told her she could not break her lease early.


65


65

### Tina

What issues are raised?

How do you approach it?


## HYPOTHETICAL #3


66

66



## Questions? Thank you!



Laura Carothers Graham, Esquire  
Deputy Director  
Project Director MLP, DV, Immigration Units  
Community Legal Aid Society Inc.

