German Landlord/Tenant Laws Handout

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

Living on the German economy is a great way to learn more about your new home. But be aware that when you rent a German apartment, you are bound by German laws. This is meant to be a very general introduction into German landlord-tenant law. For more information, call the Legal Assistance Office.

TERMINATION OF A LEASE

Termination Period

As soon as a soldier knows his date of departure he should give his landlord notice of termination of the lease in writing. The tenant should check through the lease regarding the period of notice required to terminate the lease.

Indefinite leases usually require a three months notice unless the contract specifies a shorter notice period. If the tenant has lived in the apartment more than 5 years, the termination period is six months for the landlord and three months for the tenant. The regular three months period starts at the beginning of each month if the landlord has received notice within the first three working days of the month.

15 or 30 days termination periods start either at the beginning or the middle of the month, depending upon what the contract specifies.

Fix term leases are binding on the tenant for the agreed upon rental period. The landlord may release the tenant if he offers three adequate tenants, who are willing to take over the lease with all of its obligations.

The Housing Office uses a standard form contract that allows a tenant to cancel a lease in one month due to military reasons (PCSing, deployments, etc.). This is known as the **Military Clause**. A servicemember should **always** use the Housing Office's standard contract and never sign a contract that does not have the Military Clause.

Termination in Writing

It is recommended that the soldier request the Housing Office to provide him with the necessary paperwork for termination notice to a German landlord. After signing the termination notice, the tenant needs to send the notice to the landlord return receipt requested by German Mail or hand carry it and deliver it in the presence of an unbiased witness.

If the tenant is terminating an indefinite lease, the consent of the landlord is not required. If a fix term lease is terminated and the tenant cannot get the release of the landlord, the Legal Assistance Office at Kelley Barracks, Bldg 3312 should be contacted.

OUTSTANDING RENT

The landlord does not have to cover the outstanding rent with the security deposit. Therefore, it is illegal to withhold the last one or two months' rent unless the soldier informs the landlord about his intentions and the landlord agrees.

For failure to pay the rent, the landlord is entitled to attach property of the tenant. This right of the landlord can be enforced without a court order as long as the property is located in the rented apartment. However there are some restrictions as to the type of property that may be attached.

RENOVATION COSTS

It depends on the provisions of the lease if a tenant is responsible for the renovation or the cost of renovation of the rented premises. Therefore, the tenant must check the renovation clause of the lease with the help of the Housing Office. Unless the contract specifies that the tenant is responsible to renovate or to pay for renovation, he is released from this obligation.

DAMAGES TO THE APARTMENT

A pre-check out with a representative from Housing Office and/or the landlord should be accomplished a few weeks prior to the move-out date. This provides an opportunity to settle a claim in dispute. If actual damages are present, there is sufficient time to get an estimate of the repair costs.

The tenant has the burden of proof to establish that any damages were present in the apartment before he moved in. A check-in list or inventory sheet is the best proof. If an inventory sheet is not available, the statement of a credible witness can also be considered as sufficient.

UTILITIES

A problem could occur if the tenant has paid advanced monthly payments for utilities and yet has not received the annual reconciliation. In Germany, utility bills are based on estimates, and the tenant will either pay more or get money back based on the actual usage at the end of the accounting period – this is called the annual reconciliation. The accounting period usually ends in December or around May/June of each year. At this time the meter for water and heating will be read. German courts grant the landlord a period of up to twelve months after the meters are read to provide the tenant with the reconciliation statement.

If the tenant moves out within the accounting period, the meters have to be read at the time of move-out. However, the bill is not due at this time.

Some leases allow the landlord to withhold an appropriate part of the security deposit if an additional payment for the utilities can be expected based on the last year's reconciliation. In these cases, it is recommended to work out an agreement based on the amount of the last year's reconciliation or to provide the landlord with the tenant's address in the states to settle any claim when it's due.

COURT ACTION

Reimbursement of the security deposit is due at the time of move-out if there are no claims in dispute. If the landlord requests reimbursement for damages or renovation he is granted an appropriate period of time to specify his claims. As a maximum, the German courts grant an extension of three to six months to specify the claims and to reimburse the tenant.

A tenant can hire a German attorney on the economy to file a reimbursement claim against the landlord. It is recommended that the soldier inform a trustworthy person about his case and provide

that person with a power of attorney so this person can be a point of contact for the German attorney after the soldier's departure from Germany.

Another possibility is to join the Tenant's Association. They are located at: Mieterverein Stuttgart, Moserstr. 5, 70182 Stuttgart, Tel: 0711-21016-0 (www.mieterverein-stuttgart.de). To acquire membership a yearly fee is required. The Association provides free consultation with an expert on landlord/tenant problems to their members. If the member wants to file a claim against a landlord or is sued by a landlord, the tenant's association provides an attorney.

If the tenant has been a member of the tenant's association for three months before the issue arose, the tenant's association pays the court and attorney fees if the tenant is not successful. In cases where the tenant has just recently joined, the tenant's association provides an attorney but the tenant has to pay court and attorney fees if he is not successful.

As a general rule in civilian court actions, the unsuccessful party has to pay the costs of the court action, which includes attorney fees for both sides and the court costs. The successful litigant does not have to pay anything. If a litigant is partially successful, all procedure costs are divided. The cost of attorney fees and court costs depend on the value of the matter in dispute.

If the litigant has severe financial problems his attorney can apply for legal aid. If the judge grants legal aid, the client only has to pay the other party's attorney fees if he is unsuccessful.

7. **STATUTE OF LIMITATIONS**

Claims of the landlord:

Outstanding rent and utility payments: 3 years (starting at the end of the year during which the claim for payment arose)

All other claims arising from a rental agreement: 6 months (starting with the return of the rental object)

Claims of the tenant:

Security deposit: 3 years
Reconciliation of utilities: 3 years

For further information, contact the Legal Assistance Office, Stuttgart Law Center, DSN 421-4152; Civ 0711-729-4152

REVIEWED BY: CPT Michael Watts, Chief Client Services
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References:

German Legal website: www.anwaltonline.com/english/index.html

Bürgerliches Gesetz Buch (BGB) § 535 et seq. (http://www.gesetze-im-internet.de/bgb/index.html)