

# LANDLORD-TENANT LAW

Module 5: Subsidized Housing

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## The Big Three

Public Housing  
(HUD/HA)

Sec. 8/Project-Based  
(HA/LL)

Sec. 8/Tenant- Based (aka, Housing  
Choice, Voucher Program)  
(HA/LL, HA/T, LL/T)

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## These Aren't Your Usual LL-T Agreements.

- > The purpose is different.
- > The stakes are higher.
- > There's a LOT of bureaucracy involved.
- > Government involvement may amount to "state action"



**due process requirements**

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## Practical Differences

(I might be being a little optimistic here)



Always written.



Always a forfeiture clause.



Breach of lease condition (almost always basis for eviction.



Everything you need to know is in the lease.

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The most important characteristic of subsidized housing cases is that the rules depend on the type of subsidy.

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### A couple of special notes on Voucher Program

- Incorporated into leases through lease addendum:  
<https://www.hud.gov/sites/dfiles/OCHCO/documents/52641A.pdf>
- Three contracts involved here.
- LL is required to notify HA before evicting T

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NC SUPREME COURT

Three Cases

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Case #1: East Carolina Regional Housing Authority v. Lofton, 369 N.C. 8 (N.C. 2016)

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Case #2: Raleigh Housing Authority v. Winston

- Decided 3/12/2021 after Court granted discretionary review.
- Public housing case.
- LL won at small claims, district court, and court of appeals level.

NC Supreme Court **reversed and remanded.**

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Facts according to trial judge's judgment.

- Tenant moved in in April, 2017.
- Other tenants filed 3 written complaints about noise in Oct/Nov.
- 12/1: Notice of termination for “violating Paragraph 9(f)” of lease (which judge labeled *material breach*)
- After informal meeting with defendant, LL rescinded notice (DV/VAWA).
- Feb 5: Another noise complaint.
- Feb. 13: Notice of termination issued, upheld following grievance hearing.
- When T did not vacate, SE action filed (stated grounds: holding over).

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Applicable law

Title 24/CFR/Sec. 966.4(U)(3)(i):

(3) Lease termination notice.

(ii) The notice of lease termination to the tenant shall state specific grounds for termination, and shall inform the tenant of the tenant's right to make such reply as the tenant may wish. . . . When the PHA is required to afford the tenant the opportunity for a grievance hearing, the notice shall also inform the tenant of the tenant's right to request a hearing . . . .”

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The relevant portion of the notice of termination states:

You are hereby notified that the Housing Authority intends to terminate your Lease to the premises at 158-206 Gas Light Creek Court under the provisions in your Lease Agreement and pursuant to Raleigh Housing Authority's Grievance Procedure due to the following:

Inappropriate Conduct – Multiple Complaints

9. **OBLIGATIONS OF RESIDENT**  
 F. To conduct himself/herself and cause other persons who are on the premises with the Resident's consent to conduct themselves in a manner which will not disturb the neighbors' peaceful enjoyment of their accommodations.

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**The Court's Decision**

As a whole, the notice of termination is indeterminate. Winston cannot determine from the notice of termination how RHA contends she breached provision 9(F) of the lease agreement, and none of the trial court's factual findings support a conclusion otherwise. In the notice of termination, RHA failed to clearly identify the factors forming the basis for termination of the lease—the specific grounds for termination. Winston lacked adequate notice of the basis for the termination of lease. We reverse the decision of the Court of Appeals.

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**Eviction from public housing**

Allowed only for

- "Serious or repeated violation of material terms of the lease"
- Being over the income limit
- "Other good cause" defined by regs, including criminal activity, fraud in application, etc.

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### Eviction from public housing

Allowed only for

- “Serious or repeated violation of **material terms** of the lease”

**Includes not disturbing other residents’ peaceful enjoyment.**

- Being over the income limit
- “Other good cause” defined by regs, including criminal activity, fraud in application, etc.

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### Case #3: Winston Affordable Housing v. Roberts

- Decided 5/1/2020 after Court granted discretionary review.
- Project- based housing case.
- LL won at small claims, district court, and court of appeals level.

NC Supreme Court **reversed and remanded.**

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The facts of this case are a mess. I will be brief.

- Notice of termination for various reasons related to conduct given on Oct 3 effective Dec. 31 (end of lease period).
- She paid her share of rent for rest of year.
- On Jan. 4 plaintiff asked T to sign document acknowledging new rent of \$532 (had been \$139).
- On Jan 5, filed a SE action.
- On Jan. 9, delivered a “pay or quit” notice.
- On appeal for trial de novo, LL filed amended complaint for conduct breaches & failure to pay rent. DCJ awarded possession based only on failure to pay rent.

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NC Supreme Court held:

- LL does not waive right to terminate lease by accepting rent when (1) lease automatically renews; (2) LL communicates intent not to renew; (3) non-renewal is specifically listed remedy in lease.
- LL's decision to terminate is subject to federal regulations. DCJ must hear evidence and make findings about whether LL has complied with federal law.
- Federal law requires grounds for eviction to be "cited in the termination notice." No reference to failure to pay rent here.

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