

## Index

This index does not purport to reflect each use of each word. Rather, it is selective, trying to identify only those places the user would like to find the specific words and terms they are looking for. To list every use of the word landlord, for instance would not be very helpful—it appears in Chapter 90 over 800 times.

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Actual notice—a lower standard than written notice—can only be used by a landlord in four circumstances: [1] during the application process {see ORS 90.295 on page 26}; [2] to deliver the premises to the tenant {90.147(1) on page 14}; [3] to notify a tenant the landlord plans to enter the premises {90.322(1)(f) on page 40}; and [4] to notify a tenant within 24 hours after making an emergency entry to the property {90.322(1)(b) on page 41}.

For practical purposes, that means for access. Actual notice includes communicating to your tenant by (1) talking to him personally, (2) talking to him on the telephone, (3) leaving a message on his answering machine, at home or at work, (4) posting a note on the door of the residence, (5) sending a note by fax, or (6) mailed (but add three days for mailing; so not practically useful). The law also allows for adding other methods by contract—in your rental agreement. You could use email, for instance, but only if your contract allows for it (coming to ORHA lease forms).

Use of actual notice carries a risk: it is hard to prove notice was given. As a consequence, many landlords don't use actual notice. Others use different procedures to document the notice (such as notation in a diary or a witness to a phone call). Particularly at times when the tenant has little incentive to maintain good relations with the landlord (such as in the middle of an eviction), the prudent landlord will be extra careful when using actual notice.

**90.155 Service or delivery of written notice.** (1) Except as provided in ORS 90.300 [*security deposits*], 90.425 and 90.675 [*both, abandoned property*], where this chapter requires written notice, service or delivery of that written notice shall be executed by one or more of the following methods:

- (a) Personal delivery to the landlord or tenant;
- (b) First class mail to the landlord or tenant; or
- (c) If a written rental agreement so provides, both first class mail and attachment to a designated location. In order for a written rental agreement to provide for mail and attachment service of written notices from the landlord to the tenant, the agreement must also provide for such service of written notices from the tenant to the landlord. Mail and attachment service of written notices shall be executed as follows:

(A) For written notices from the landlord to the tenant, the first class mail notice copy shall be addressed to the tenant at the premises and the second notice copy shall be attached in a secure manner to the main entrance to that portion of the premises of which the tenant has possession; and

(B) For written notices from the tenant to the landlord, the first class mail notice copy shall be addressed to the landlord at an address as designated in the written rental agreement and the second notice copy shall be attached in a secure manner to the landlord's designated location, which shall be described with

Adding three days for mailing is a requirement for all mailed-only notices. That includes tenant-mailed notices, as well. Particularly, when a tenant gives thirty (or fewer) days notice, a landlord can calculate the notice period as extending to thirty-three days from the date of mailing. But save the envelope.

Subsection (3) says that a landlord or tenant may use more than one of these methods, or may use an unauthorized method (such as certified mail) as long as at least one of the authorized methods is also used. So certified mail is legal, but only if a copy is sent by regular first-class mail or personally served as well.

Post and mail (a colloquial term [some say nail and mail]; the law actually says “mail and attachment to a designated location”) covers all written notices, with just a couple of exceptions (deposit refund notices and abandoned goods notices). Post and mail may be used only if a rental agreement so provides (which all ORHA forms do). Remember that post and mail must be available to both parties: in other words, if the landlord can post and mail, so can the tenant. That means the rental agreement must designate a location where the tenant can post. That can be the landlord’s home or office, as long as it’s available at all times. And it must be reasonably located in relation to the tenant. Portland landlords can’t use an Ashland address (indeed, it’s been held they can’t use a location on the other side of the river).

**90.155**  
**Written**  
**notice**

Here’s an example of unintended consequences. Because manufactured home rental agreements and rules cannot be unilaterally changed, even when the law changes, facility landlords could no longer use “post and mail” of notices because a 1997 change to the law said landlords could only use such a delivery method if a tenant could as well, and the rental agreement had to provide where tenants were to post such notices. Since facility landlords could not by themselves change the rental agreement to provide such language, they all of a sudden couldn’t use “post and mail.” The 2001 legislature fixed that, with subsection (4). So facility landlords can now send around a notice, then thirty days later begin posting and mailing notices.

particularity in the written rental agreement, reasonably located in relation to the tenant and available at all hours.

(2) If a notice is served by mail, the minimum period for compliance or termination of tenancy, as appropriate, shall be extended by three days, and the notice shall include the extension in the period provided.

(3) A landlord or tenant may utilize alternative methods of notifying the other so long as the alternative method is in addition to one of the service methods described in subsection (1) of this section.

(4) Notwithstanding ORS 90.510 (4), after 30 days’ written notice, a landlord may unilaterally amend a rental agreement for a manufactured dwelling or floating home that is subject to ORS 90.505 to 90.840 to provide for service or delivery of written notices by mail and attachment service as provided by subsection (1)(c) of this section.

**90.160 Calculation of notice periods.** (1) Notwithstanding ORCP 10 [*rules for computation of time*] and not including the seven-day and four-day waiting periods provided in ORS 90.394 [*termination for nonpayment of rent*], where there are references in this chapter to periods and notices based on a number of days, those days shall be calculated by consecutive calendar days, not including the initial day of service, but including the last day until midnight of that last day. Where there are references in this chapter to periods or notices based on a number of hours, those hours shall be calculated in consecutive clock hours, beginning immediately upon service.

(2) Notwithstanding subsection (1) of this section, for 72-hour or 144-hour nonpayment notices under ORS 90.394 that are served pursuant to ORS 90.155 (1)(c) [*“post and mail”*], the time period described in subsection (1) of this section begins at 11:59 p.m. the day the notice is both mailed and attached to the premises. The time period shall end 72 hours or 144 hours, as the case may be, after the time started to run at 11:59 p.m.

While it may be illegal to evict a person because she is a victim of domestic violence, a landlord doesn't always know. If there is bad stuff going down, a landlord might simply give a 30-day no-cause notice. Of course, discrimination—including being a victim of domestic violence—is a defense against even a no-cause eviction.

Oregon law addresses the situation where the landlord makes reasonable decisions based on known facts but nonetheless ends up attempting to terminate the tenancy of a domestic violence victim though not for that reason.

The key is: what does the landlord know? Once the landlord “becomes aware” that domestic violence is an issue, if the landlord drops the termination or eviction against the victim (perhaps continuing against the perpetrator), the landlord is not liable for legal fees or court fees incurred by the victim.

- (4) A tenant who is released from a rental agreement pursuant to subsection (2) of this section:
  - (a) Is not liable for rent or damages to the dwelling unit incurred after the release date; and
  - (b) Is not subject to any fee solely because of termination of the rental agreement.
- (5) Notwithstanding the release from a rental agreement of a tenant who is a victim of domestic violence, sexual assault or stalking, any other tenant remains subject to the rental agreement.
- (6) A landlord may not disclose any information provided by a tenant under this section to a third party unless the disclosure is:
  - (a) Consented to in writing by the tenant;
  - (b) Required for use in an eviction proceeding;
  - (c) Made to a qualified third party; or
  - (d) Required by law.
- (7) The provision of a verification statement under subsection (2) of this section does not waive the confidential or privileged nature of a communication between the victim of domestic violence, sexual assault or stalking and a qualified third party.

**90.456 Other tenants remaining in dwelling unit following tenant termination or exclusion due to domestic violence, sexual assault or stalking.** Notwithstanding the release of a victim of domestic violence, sexual assault or stalking from a rental agreement under ORS 90.453 or the exclusion of a perpetrator of domestic violence, sexual assault or stalking as provided in ORS 90.459 or 105.128, if there are any remaining tenants of the dwelling unit, the tenancy shall continue for those tenants. Any fee, security deposit or prepaid rent paid by the victim, perpetrator or other tenants shall be applied, accounted for or refunded by the landlord following termination of the tenancy and delivery of possession by the remaining tenants as provided in ORS 90.300 and 90.302.

**90.459 Change of locks at request of tenant who is victim of domestic violence, sexual assault or stalking.** (1) A tenant may give actual notice to the landlord that the tenant is a victim of domestic violence, sexual assault or stalking and may request that the locks to the dwelling unit be changed. A tenant is not required to provide verification of the domestic violence, sexual assault or stalking to initiate the changing of the locks.

(2) A landlord who receives a request under subsection (1) of this section shall promptly change the locks to the tenant's dwelling unit at the tenant's expense or shall give the tenant permission to change the locks. If a landlord fails to promptly act, the tenant may change the

A domestic violence victim (including the victim of sexual assault and stalking; the right also pertains if the minor child of a tenant is such a victim) has the right to have the locks changed. Again, the idea is that a woman, and most victims are women, who fears an ex-boyfriend, should be able to lock him out.

**90.459  
Domestic  
violence**

This problem created a problem for landlords before this law took affect: if one tenant fears another and even gets a restraining order and wants to change the locks, what's a landlord to do? Now the law says what the tenant must do:

- The tenant must notify you that:
  - a. the tenant is a victim of domestic violence, stalking, or sexual assault, and
  - b. the tenant wants the locks changed.
- If the perpetrator of the domestic violence or sexual assault lives with tenant, the tenant must give you a copy of a restraining order specifically requiring the perpetrator to move out.
- If the perpetrator doesn't live with the tenant, a verbal request—by phone or in person—is sufficient. You can request written confirmation, but you can't hold up the lock change while waiting for such confirmation.
- The tenant must pay the cost of changing the locks. You can't delay changing the locks until you get paid. Nonpayment of the charge is grounds for a 30-day for-cause termination notice.
- If the tenant changes the locks or has them changed, you must be given a key. Not getting a key is grounds for a 30-day for-cause termination notice.

Locking out a tenant is no small matter. Since adoption of Landlord Tenant Act in 1973, landlords have been prohibited from locking out tenants—from self-help. So tread carefully. The restraining order must specifically state that the perpetrator is excluded from the rental. The actual address of your rental property should be on the restraining order.

And once he's out, he's out. Don't let him in to get possessions; he can go to the police or the courts for that or work it out with the victim. (If she wants to let him come over to get stuff, that's her business—though it's also a violation of the restraining order, but that's not your problem.)

locks without the landlord's permission. If the tenant changes the locks, the tenant shall give a key to the new locks to the landlord.

(3) If the perpetrator of the domestic violence, sexual assault or stalking is a tenant in the same dwelling unit as the victim:

- (a) Before the landlord or tenant changes the locks under this section, the tenant must provide the landlord with a copy of an order issued by a court pursuant to ORS 107.716 or 107.718 or any other federal, state, local or tribal court that orders the perpetrator to move out of the dwelling unit.
- (b) The landlord has no duty under the rental agreement or by law to allow the perpetrator access to the dwelling unit or provide keys to the perpetrator, during the term of the court order or after expiration of the court order, or to provide the perpetrator access to the perpetrator's personal property within the dwelling unit. Notwithstanding ORS 90.425, 90.435 or 90.675, if a landlord complies completely and in good faith with this section, the landlord is not liable to a perpetrator excluded from the dwelling unit.
- (c) The perpetrator is jointly liable with any other tenant of the dwelling unit for rent or damages to the dwelling unit incurred prior to the date the perpetrator was excluded from the dwelling unit.