

Form Review #18

By
J. Norton Cabell

Oregon Rental Housing 24-HOUR NOTICE TO ENTER 18

NAME: _____ ①
ADDRESS: _____ UNIT: _____
CITY: _____ STATE: _____ ZIP: _____

DATE: _____ ② TIME POSTED & MAILED: _____ TIME PERSONALLY OR SERVED ON RESIDENT: _____ TIME OR MAILED: _____

This is your 24-hour notice that the owner/agent plans to enter the premises on _____/③_____ for the following reason(s):

To make necessary or agreed upon repairs or improvements
④ Name of Company (if a proprietor): _____
Repairs: _____

To inspect To show to a prospective renter
 To allow governmental agencies to inspect To show to a prospective buyer

This notice, if mailed, shall be mailed by First Class mail ONLY (not certified, registered, etc.) If notice is served by mail ONLY, the date of entry MUST include an additional three (3) days to allow for the delivery of notice, not counting date of mailing.

Owner/Agent _____ ⑤
Telephone: () _____ - ⑥

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Oregon Rental Housing Association, Inc.

What this form is for

Oregon's law generally requires notice prior to a landlord entering property leased to another. And such access must be for a legitimate purpose. This form establishes the purpose and, delivered properly, enables the landlord to comply with the notice requirement.

When this form is used

Generally, before a landlord goes onto or into a tenant's property, he needs to give prior notice. The requirements differ depending on why the entry is being made. Access can be made for five purposes:

1. To serve notices
2. In an emergency
3. At the tenant's request for repairs
4. To show the property for sale or lease
5. For inspections

Mostly this form is used for reasons 4 and 5.

To serve notices (reason #1), no prior notice is required. But the landlord or agent can only go up to the front door (the law says "the main entrance") to knock or to post a notice. This may mean the landlord enters property to which the tenant is entitled exclusive control (see more comment below). The idea is to serve the notice, then depart. If you start wandering around, peering in the garage window and the like, you've broken the law.

If the situation is an emergency, you needn't give prior notice. See Emergency Entry, Form #19. If your tenant requests repairs in writing, you needn't give further notice. See Maintenance Request, Form #17. But if the request isn't in writing, or if seven days have passed since you received the request in writing, you need to give 24-hours' notice before entering. You can use this form. If you're trying to sell the property, you can enter into a sort of master agreement in which the tenant waives the requirement that you give 24 hours' prior notice. See Entry Agreement, Form #40. For other reasons, use this form. What are other reasons? They are: to inspect, to make repairs at your behest or upon the tenant's verbal request, or to show the place to prospective tenants or buyers.

Access

Except to serve a notice (reason #1 above), you need either to comply with these notice provisions or you need your tenant's permission before you can enter "any portion of the premises under the tenant's exclusive control." What area is that? In an apartment complex it's pretty clear that the only area the tenant controls exclusively is the unit itself plus any porch or deck or fenced area. It's equally clear that if you're renting a typical single family home, the tenant has exclusive use of and therefore exclusive control over the yard, garage, and driveway. Duplexes and the occasional triplex get more difficult. It depends on the layout. Are the two yards separately fenced or set off by landscaping? Does your lease specify? Who maintains what?

If you're not certain, err on the side of assuming your tenant has exclusive control and you can't go onto that property without permission or appropriate notice. This includes your agents. If your tenant isn't mowing as he's supposed to and you decide to have someone do it for you or if you contract out to a landscaper to provide regular service, first give 24 hours' notice.

Actual vs. Written notice

The law requires that most notices be given in one of three ways: by mail, by hand, or by what's colloquially called "post-and-mail" (see Delivery of Notices on page 64). Certain notices, however, can be given by actual notice. Access notices are those most commonly given by actual notice. Actual notice includes verbal communication. That means talking to your tenant or leaving a message on his answering machine. Actual notice includes a written notice (such as this form) handed to the tenant, faxed to the tenant, or posted on the tenant's door.

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Actual notice includes mailing, but three days must be added. And actual notice includes other forms of delivery that you and your tenant have agreed to in writing (I use email with some of my tenants).

Practically speaking, that means you can deliver this form by posting it on the tenant's front door. You don't need simultaneously to mail a copy.

Actual notice is simple and quick. You can call the tenant and say you'll be over tomorrow after-noon. You can call him at work. You can go by and stick a note on the door. While simpler and quicker, there's a risk. Proving you gave notice legally is more difficult. How do you prove a telephone call? Some landlords refuse to use actual notice, fearing the risk. Others use it, but only the written form. Yet others use it with tenants of some tenure where the relationship is friendly. There's no right answer. But if you use actual notice, take a few precautions. Keep a copy of any written notice you use. Document your phone calls (use a diary or telephone log). Have a witness.

How the form is filled in

1 This is the tenant's name and address.

2 Fill in the date and time the notice is delivered. If you fax the form, cross out "mailed" and write "faxed." If you post it but don't mail, cross out "& mailed."

3 Put the date you're planning to go into the tenant's house. You could be more specific-listing a time-but avoid that if you can. It restricts you to going in at just that time, not half an hour earlier or later. On the other hand, if you post the notice at noon on the twelfth, don't go in before noon on the thirteenth, even if you put simply the thirteenth in this space. 24 hours, remember.

4 Check one of the five boxes. If you're having a repairman come over, list his name or the company and describe the repairs. If you're making the repairs, put "n/a" or "self" in the space.

5 Sign here.

6 You needn't put a telephone number here, but it's a good idea. Make it easy for the tenant to call and say this time isn't convenient, to schedule another. (Better to find out now than to drive over there and find a note on the door asking you not to come in.)