STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND AND ELEVEN

H.P. 889 - L.D. 1198

An Act To Reduce Regulations for Residential Rental Property Owners

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 14 MRSA §6001, sub-§3, as amended by PL 2009, c. 566, §2, is further amended to read:

3. Presumption of retaliation. In any action of forcible entry and detainer there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months prior to the commencement of the action, the tenant has:

A. Asserted the tenant's rights pursuant to section 6021;

B. Complained as an individual, or if a complaint has been made in that individual's behalf, in good faith, of conditions affecting that individual's dwelling unit that may constitute a violation of a building, housing, sanitary or other code, ordinance, regulation or statute, presently or hereafter adopted, to a body charged with enforcement of that code, ordinance, regulation or statute, or such a body has filed a notice or complaint of such a violation;

C. Complained in writing or made a written request, in good faith, to the landlord or the landlord's agent to make repairs on the premises as required by any applicable building, housing or sanitary code, or by section 6021, or as required by the rental agreement between the parties; or

E. ~~Filed~~ Prior to being served with an eviction notice, filed, in good faith, a fair housing complaint for which there is a reasonable basis with the Maine Human Rights Commission or filed, in good faith, a fair housing complaint for which there is a reasonable basis with the United States Department of Housing and Urban Development concerning acts affecting that individual's tenancy.

If an action of forcible entry and detainer is brought for failure to pay rent or for causing substantial damage to the premises, the presumption of retaliation does not apply, unless the tenant has asserted a right pursuant to section 6026.

No writ of possession may issue in the absence of rebuttal of the presumption of retaliation.

Sec. 2. 14 MRSA §6001, sub-§5, as enacted by PL 2009, c. 566, §3, is repealed and the following enacted in its place:

5. Affirmative defense. A tenant may raise the affirmative defense of failure of the landlord to provide the tenant with a reasonable accommodation pursuant to Title 5, chapter 337 or the federal Fair Housing Act, 42 United States Code, Section 3604(f)(3)(B). The court shall deny the forcible entry and detainer and not grant possession to the landlord if the court determines that the landlord has a duty to offer a reasonable accommodation and has failed to do so and there is a causal link between the accommodation requested and the conduct that is the subject of the forcible entry and detainer action.

The court shall grant the forcible entry and detainer if the court determines that the landlord is otherwise entitled to possession and:

A. The landlord does not have a duty to offer a reasonable accommodation;

B. The landlord has, in fact, offered a reasonable accommodation; or

C. There is no causal link between the accommodation requested and the conduct that is the subject of the forcible entry and detainer action.

For purposes of this subsection, "reasonable accommodation" means a change, exception or adjustment to a rule, policy, practice or service that is necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common access spaces for that dwelling.

Sec. 3. 14 MRSA §6008, sub-§6 is enacted to read:

6. Affidavit required. A notice of appeal filed by the defendant must be accompanied by an affidavit stating the defendant has complied with the requirements of subsection 2 regarding the payment of rent.

Sec. 4. 14 MRSA §6013, first ¶, as repealed and replaced by PL 2009, c. 566, §7, is amended to read:

Any personal property that remains in a rental unit after ~~the issuance of a writ of possession~~ entry of judgment in favor of the landlord or that is abandoned or unclaimed by a tenant following the tenant's vacating the rental unit must be disposed of as follows.

Sec. 5. 14 MRSA §6013, sub-§2, as enacted by PL 2009, c. 566, §7, is repealed and the following enacted in its place:

2. Notice to tenant. Notice to the tenant by the landlord is governed by this subsection. Notice may be sent at any time after entry of judgment in favor of the landlord or after the tenant has vacated the rental unit.

A. If the tenant is still in possession of the rental unit, the landlord shall send written notice by first-class mail with proof of mailing to the tenant at the address of the rental unit of the landlord's intent to dispose of, in accordance with subsection 5, any property remaining in the rental unit following the tenant's vacating the rental unit. Notwithstanding subsections 3 and 5, the notice provided pursuant to this paragraph

may not limit the the time in which the tenant may claim the property to less than 7 days following the mailing of the notice or 48 hours after service of the writ of possession, whichever period is longer.

B. If the tenant has vacated the rental unit, the landlord shall send written notice by first-class mail with proof of mailing to the last known address of the tenant concerning the landlord's intent to dispose of the property stored pursuant to subsection 1. The notice must include an itemized list of the items and containers of items of the property and advise the tenant that if the tenant does not respond to the notice within 7 days the landlord may dispose of the property as set forth in subsection 5.

Sec. 6. 14 MRSA §6013, sub-§§3 to 5, as enacted by PL 2009, c. 566, §7, are amended to read:

3. Release of property claimed. If the tenant claims the property within ~~14~~ 7 days after the notice under subsection 2 is sent, the landlord shall release the property to the tenant and may not condition release of the property to the tenant upon payment of any fee or any other amount that may be owed to the landlord by the tenant.

4. Continuation of storage for claimed property. If the tenant responds to the notice sent pursuant to subsection 2, the landlord shall continue to store the property for at least ~~24~~ 14 days after the landlord sent the notice.

5. Conditional release; sale or disposal. A landlord shall comply with the following.

A. If the tenant makes an oral or written claim for the property within ~~14~~ 7 days after the date the notice described in subsection 2 is sent, the landlord may not condition the release of the property to the tenant upon the tenant's payment of any rental arrearages, damages and costs of storage as long as the tenant makes arrangements to retrieve the property by the ~~24th~~ 14th day after the notice described in subsection 2 is sent.

B. If the tenant makes the claim as set forth in paragraph A but fails to retrieve the property by the ~~24th~~ 14th day, the landlord may employ one or more of the remedies described in paragraph D.

C. If the tenant does not make an oral or written claim for the property within ~~14~~ 7 days after the notice described in subsection 2 is sent, the landlord may employ one or more of the remedies described in paragraph D.

D. With regard to any property that remains unclaimed by the tenant in accordance with this subsection, the landlord may take one or more of the following actions:

(1) Condition the release of the property to the tenant upon the tenant's payment of all rental arrearages, damages and costs of storage;

(2) Sell any property for a reasonable fair market price and apply all proceeds to rental arrearages, damages and costs of storage and sale. All remaining balances must be forwarded to the Treasurer of State; or

(3) Dispose of any property that has no reasonable fair market value.

Sec. 7. 14 MRSA §6013, sub-§6 is enacted to read:

6. Waiver. After or upon vacating the rental unit, a tenant may waive the tenant's rights pursuant to this section. If this waiver is oral, the landlord shall confirm this waiver in writing.

Sec. 8. 14 MRSA §6013, as repealed and replaced by PL 2009, c. 566, §7, is amended by adding at the end a new paragraph to read:

A lease or tenancy at will agreement may permit a landlord to dispose of property abandoned by a tenant without liability as long as the landlord complies with the notice provisions of this section.

Sec. 9. 14 MRSA §6021-A, sub-§2, ¶F, as enacted by PL 2009, c. 566, §8, is amended to read:

F. A landlord shall offer to make reasonable assistance~~, including financial assistance,~~ available to a tenant who is not able to comply with requested bedbug inspection or control measures under subsection 3, paragraph C. The landlord shall disclose to the tenant what the cost may be for the tenant's compliance with the requested bedbug inspection or control measure. After ~~first disclosing what the cost of the tenant's compliance with requested bedbug inspection or control measures may be, a~~ making this disclosure, the landlord may provide financial assistance to the tenant to prepare the unit for bedbug treatment. A landlord may charge the tenant a reasonable amount for any such assistance, subject to a reasonable repayment schedule, not to exceed 6 months, unless an extension is otherwise agreed to by the landlord and the tenant. This paragraph may not be construed to require the landlord to provide the tenant with alternate lodging or to pay to replace the tenant's personal property.

Sec. 10. 14 MRSA §6021-A, sub-§4, ¶D, as enacted by PL 2009, c. 566, §8, is amended to read:

D. In any action of forcible entry and detainer under section 6001, there is a rebuttable presumption that the action was commenced in retaliation against the tenant if, within 6 months before the commencement of the action, the tenant has asserted the tenant's rights pursuant to this section. The rebuttable presumption of retaliation does not apply unless the tenant asserted that tenant's rights pursuant to this section prior to being served with the eviction notice. There is no presumption of retaliation if the action for forcible entry and detainer is brought for failure to pay rent or for causing substantial damage to the premises.

Sec. 11. 14 MRSA §6030-C, as amended by PL 2009, c. 652, Pt. B, §2 and affected by §3, is further amended to read:

§6030-C. Residential energy efficiency disclosure statement

1. Energy efficiency disclosure. A prospective tenant who will be paying utility costs has the right to obtain from an energy supplier for the unit offered for rental the amount of consumption and the cost of that consumption for the prior 12-month period.

A landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement for residential property that will be used by a tenant or lessee as a primary residence shall provide to potential tenants or lessees who pay for an energy supply for the unit, or upon request by a tenant or lessee a residential energy efficiency disclosure statement in accordance with Title 35-A, section 10117, subsection 1 that includes, but is not limited to, information about the energy efficiency of the property. Alternatively, the landlord may include in the application for the residential property the name of each supplier of energy that previously supplied the unit, if known, and the following statement: "You have the right to obtain a 12-month history of energy consumption and the cost of that consumption from the energy supplier."

2. Provision of statement. A landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the residential energy efficiency disclosure statement required under subsection 1 in accordance with this subsection. The landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement to any person who requests the statement in person ~~and shall post the statement in a prominent location in a property that is being offered for rent or lease~~. Before a tenant or lessee enters into a contract or pays a deposit to rent or lease a property, the landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall provide the statement to the tenant or lessee, obtain the tenant's or lessee's signature on the statement and sign the statement. The landlord or other person who on behalf of a landlord enters into a lease or tenancy at will agreement shall retain the signed statement for a minimum of ~~7~~ 3 years.

In House of Representatives, ... 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, ... 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor