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## TENLAW: Tenancy Law and Housing Policy in Multi-level Europe

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### **Tenant's Rights Brochure for**

# **DENMARK**

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## **1. Introductory information**

- **Give a very brief introduction on the national rental market**
  - **Current supply and demand situation**

The approximate number of households in Denmark today (2012) is 2,5 million. There were 465,210 private rented dwellings in 2010. There are also a total of approx. 595,000 social rented dwellings.

There is no general shortage of housing in Denmark. In the major urban areas, particularly Copenhagen, there is strong demand for attractive rented housing and for low-cost rented housing, but does not mean that there is no general shortage of housing. Studies say that in some areas there might be an increasing rental demand from more persons of higher ages who need rental dwellings. Furthermore, increasing rental demand from earlier separation of children from their parents and an increasing tendency towards more single living has emerged. As a result there might be a demand for more rental housing in the future. Declining building activity in the recent years could also cause demands for more rental housing in general on a longer perspective.

This also means that in general it is not possible to rent out homes in low standards or otherwise very poor quality.

- **Main current problems of the national rental market from the perspective of tenants**

The main current problems for the tenant in general might be finding a dwelling close to where he is working or studying – at an affordable price. Especially students wanting to live in the biggest cities close to the universities can face problems finding a good apartment of a decent size, that they are able to pay for.

Also unemployed people and people with low incomes in general might also find it difficult to find a place to live at a price they can afford.

The legislation on the rental market can be difficult to understand. The rules on rent regulation/rent control are in many ways difficult to understand and interpret. It is not possible for lay people to properly calculate the maximum rent applicable to a particular tenancy. This is the cause of many legal disputes, which must be resolved by the judicial system. The same problem arises as a result of contradictory and inadequate statutes - including a number of troublesome transitional rules - many of which have been in operation for a long period of time.

The courts (and to some extent the Rent Tribunals) play an important gap-filling role and solve some of the problems arising out of inadequate and sometimes contradictory rules. This is also causing problems for tenants in general, because it can be difficult to find out, what their actual rights and obligations are. This often causes problems in the relationship between the tenant and the landlord.

- **Significance of different forms of rental tenure**

- **Private renting**

The private renting sector is defined as not directly subsidised properties owned mostly by private landlords or investment companies. Regardless of property type or the number of residential tenancies (and other factors in general), private sector rental housing is regulated by the Rent Act and the Housing Regulation Act.

The private rental housing stock encompasses housing in three main types of property:

- 1) Housing in actual private sector rental properties owned by professional landlords,
- 2) Rented owner apartments (condominiums) and single-family detached houses of various sizes owned by not professionals
- 3) Rented cooperative housing

A quarter of all private sector rented housing consists of rented owner apartments (condominiums) often owned by a not professional landlord.

- **“Housing with a public task” (e.g. dwellings offered by housing associations, public bodies etc.)**

Within the rented housing market, there are also a total of approx. 595,000 social rented dwellings. These dwellings fall under a category of rented houses that can be called “social housing”. Social housing is found in the non-profit rental housing sector that takes approx. 45 per cent of the rental market. Non-profit housing covers more than “pure” social housing though. It is supposed to be subsidized housing for the low and middle-income groups, and was one of the gems of the post-war “Danish Social Democratic welfare state”.

The Danish social housing sector comprises a total of approx. 700 social housing organisations with 7,500 divisions (estates) in total, all of which are run on a non-profit basis. These organisations and division owns and run the houses on the basis of a residents’ democracy. In 2012 488,000 social dwellings are family dwellings, while 77,000 and approximately 30,000 are dwellings for the elderly and dwellings for young persons respectively.

- **Some general recommendations to foreigners on how to find a rental home (including any specificities with respect to the position of foreigners on the national rental market)**

Finding advertising for free rental homes in Denmark is not difficult. Landlords in general use the internet to find tenants (and vice versa). Some websites offer help (in English) on what to do and how – e.g.:

<http://www.boligportal.dk/en/>

<http://studyindenmark.dk/live-in-denmark/housing-1/how-to-find-housing>

As stated above it can be difficult to find a rental home at an affordable price in some parts of Denmark. Foreigners must be aware of the fact that some flats are fraudulently advertised on the internet as rental offers by swindlers to whom the flats do not belong. Especially in the largest cities in the summer when a lot of young people including foreigners are looking for a place to live – often because they are going to study at the university or other education institutions. A typical example is where a person pretending to be a landlord, after showing an apartment to a potential tenant, demands a deposit in cash or into a bank account before a contract is being signed. Often the “landlord” makes this deal on the same apartment with a lot of desperate potential tenants.

Discrimination of foreigners on the rental market is not documented as a common problem.

- **Main problems and “traps” (circa 5) in tenancy law from the perspective of tenants**

- The main difficulty for a tenant in Denmark (no matter whether you are a Dane or a foreigner) is to figure out the rent regulation system. It is very hard to determine if the rent which the landlord demands is in accordance with the regulation in the Rent Act and/or the Housing Regulation Act. Not even the landlord might know if he is charging the rent in accordance with the regulation.
- Payment for no other utility than specifically stated in the Rent act can be claimed by the landlord. Some landlords (and tenants) are not aware of this, and this often causes disputes, when the tenant denies paying after seeking advice from legal experts or going to the Rent Tribunal.
- Some landlords are now willing to maintain their properties regularly. This means that some tenants have to live in dwellings that are not maintained properly, which might cause health problems for the tenant in some way. The only way for the tenant to force the landlord to maintain the property is by taking his claim to the Rent Tribunal and this might take some time before the case is handled, which can be unsatisfactory for the tenant who has to live in a dwelling with defects for a longer period of time.
- A landlord’s right to terminate contracts is (very) restricted. Only when stated specifically in the Rent Act, the landlord can terminate the contract. Cases on right- or wrongful termination are often tried before the Housing Court, sometimes because it can be very doubtful whether the landlord has an actual right to terminate the contract.
- Some tenants also face problems with the landlord when moving out. Often the tenant and the landlord have disagreements on the tenant’s right to get his deposit back. This is often due to the fact that it is not always easy to state from the tenancy contract to what extent the tenant must pay for maintenance or breach of contract, when moving out. Sometimes the tenant even faces problems getting his deposit back just because the landlord is not willing to pay back the money.

- Compile a very brief section of “*Important legal terms related to tenancy law*” by quoting their original in the national language

<u>English term</u>	<u>Danish (original) term</u>
Administration of Justice Act	Retsplejeloven
Bailiffs Court	Fogedretten
Bankruptcy	Konkurs
Compulsory purchase	Ekspropriation
Condominium	Ejerlejlighed
Cost-based rent	Omkostningsbestemt leje
Consumer protection	Forbrugerbeskyttelse
Deposit	Depositum
Energy performance certificate	Energimærke
Energy saving measures	Energibesparende foranstaltninger
Estate Agent	Ejendomsmægler
Eviction	Udsættelse
Fixed-term tenancy agreement	Tidsbegrænset lejekontrakt
Free legal aid	Fri proces
Housing Court	Boligretten
Housing co-operative	Andelsboligforening
Household	Husstand
Housing Regulation Act	Boligreguleringsloven
Improvements	Forbedringer
Landlord	Udlejer
Maintenance	Vedligeholdelse
Mandatory	Præceptiv
Market rent	Markedsleje
Mixed properties	Blandede lejemål
“Money liability”	Pligtig pengeydelse
Period of notice	Opsigelsesperiode
Pre-emption	Fortrinsret
Regulated municipalities	Reguleret kommune
Rent Act	Lejeloven
Rent regulation	Huslejeregulering
Rent Tribunal	Huslejenævn
Retention rights	Tilbageholdsret
Rules of proper conduct	God skik og orden regler
Set off	Modregning
“Small properties”	Små huse
Social Housing Act	Almenlejeloven
Stepwise rent increase	Trappeleje
Sub-letting	Fremleje
Tenant	Lejer
Tenancy Agreement	Lejekontrakt
“Thoroughly improved” apartments lejemål	Gennemgribende forbedrede lejemål
Unregulated municipalities	Uregulerede kommuner

Urban renewal	Byfornyelse
Value of the premises	Det lejedes værdi

## 2. Looking for a place to live

### 2.1. Rights of the prospective tenant

- **What bases for discrimination in the selection of tenants are allowed/prohibited? What about, for example, status as a foreigner, student, unmarried partner, or person with a short-term work contract?**

The landlord in the private renting sector is free to choose whoever he prefers as a tenant. He can reject anybody as a tenant out of a general antipathy towards the person in question, his choice of domestic animals, appearance etc., provided that the rejection cannot be qualified as discrimination.

If the landlord rejects any tenant e.g. because of his religion or ethnic origin, this may constitute a breach of the Discrimination Act and may further be contrary to the Act on equal treatment of persons irrespective of racial or ethnic origin. It will be difficult for the tenant to prove that a rejection is caused by discrimination issues, because the landlord has no obligation to give the tenant any reason for the rejection.

- **What kinds of questions by the landlord are allowed (e.g. on sexual orientation, intention to have children etc.)? If a prohibited question is asked, does the tenant have the right to lie?**

There is no direct legislation on these issues. Agreements between landlords and tenants must not violate the fundamental rights laid down by the Constitution, the Discrimination Act or the Equal Treatment Act. This also means that the landlord cannot ask questions that might cause a violation of these rights before entering in to a contract with a potential tenant. Questions on sexual orientation etc. are therefore prohibited, but it will be difficult for the tenant to prove that there has been a violation. The best advice to tenants is not to answer the questions (and find another place to rent).

If the tenant lies when asked these questions, it will not be considered as a breach of contract.

- **Is a “reservation fee” usual and legal (i.e. money charged by the landlord to allow the prospective tenant to participate in the selection process)?**

No. This is not legal.

No fee for either being part of the selection or for the conclusion can be charged. In connection with the letting of premises for residential purposes, the provision of such tenancies or the exchange of flats, it is not permitted to receive or charge a fee from the tenant, nor to require the tenant to enter into another contract which is not part of the tenancy agreement. If a fee is charged, the tenant can make a claim to get it back. The landlord can even be punished in court for charging such fees.

- **What kinds of checks on the personal and financial status of the tenant are usual and legal (e.g. the landlord requiring an independent credit report)?**

Some landlords try to “screen” potential tenants on the internet or ask the potential tenants (directly or indirectly) for information about their financial status, and some landlords probably try to keep some sort of registration of former tenants as well.

The landlord could in principle ask for a salary statement, this is legal but it is not common. Most tenants would find it intimidating, but if the tenant refuse to give the potential landlord the information, he risk not getting the apartment in question.

- **What is the role of estate agents in assisting the tenant in the search for housing? Are there other bodies or institutions assisting the tenant in the search for housing?**

The role of estate agents in relation to the letting of apartments is limited. In some cases, however, the agent will act as mediator for the landlord and be in charge of negotiations with potential tenants. Some landlords advertise through estate agents and in such cases, the tenant can contact the estate agent, who most likely will be interested in helping the tenant. But the tenant must be aware of the fact that the estate agent is representing the landlord, and the agent therefore tries to get a contract that is attractive for the landlord.

Some websites live from advertising of rental homes. A potential tenant will be able to buy services (access) from these sites. This is often the easiest way to gather information on vacant apartments and it is not expensive.

In Social Housing the dwellings are allocated on the basis of waiting lists administered by the owners of the properties. There might be restrictions on, who can get on this waiting list, and the lists are very long when it comes to the most attractive apartments. The best advice is to contact the owner of the property to find out whether it is possible to get on the list and to find out for how long it will last before it is possible to get an apartment offered.

- **Are there any accessible “blacklists” (or equivalent mechanisms) of bad landlords/tenants? Is there a system for rating and labelling preferred landlords/tenants?**

The landlord can gather and keep information about his tenants until they move. It is not legal to share information about tenants or former tenants electronically or otherwise. This is due to data protections grounds.

In general the tenants’ only way to get knowledge about landlords is word of mouth. There are no registrations on (former) “swindler” landlords. If a tenant becomes a member of a tenants’ association, the association will give the tenant advice on bad landlords, who they know off, but they do not keep “official” lists or labelling systems. Through general searches on the internet potential tenants might also be able to find information on tenants who has good or bad experiences with their (former)

landlords.

## **2.2. The rental agreement**

- **What are the requirements for a valid conclusion of a rental contract (is written form necessary; is registration necessary and if yes, what kinds of fees apply lawfully)?**

There are no general requirements. All kinds of written or even oral agreements are binding and valid as long as they give sufficient evidence of the existence of a tenancy agreement, then nothing else is required. To get a contract in writing is recommendable though.

If the agreement is not in writing the Rent Act applies. This means that a tenancy agreement shall be deemed to have been concluded subject to the provisions of the Rent Act unless otherwise provided in the agreement.

No fee for the conclusion has to be paid. It is not permitted to receive or charge a fee from the tenant, or to require the tenant to enter into another contract which is not part of the tenancy agreement.

Registration in the Land Registry is not obligatory. Under the Rent Act, the fundamental rights of tenants are enforceable against anyone without registration. If the landlord sells the property the new owner will be the landlord automatically and the contract cannot be changed. This means e.g. that if the (former) landlord has charged a higher rent than allowed, the tenant can make his claim against the new landlord – even if the landlord is in good faith. It makes no difference whether the tenant has moved away before the property is sold. But on termination of the tenancy contract though, any proceedings to enforce the tenant's claims shall be commenced within 12 months from the date of termination.

If the tenant has been granted special rights – better than what is stated in the Rent Act e.g. a prolonged period of notice or an agreement on no rent increase – the tenant has to register the tenancy agreement in the Land Registry in order to be protected against any new owners and the creditors of the landlord.

- **What is the mandatory content of a contract?**
  - **Which data and information must be contained in a contract?**

There is no mandatory content. A tenancy agreement does not require a specific form or content. The only formal (mandatory) requirements are found in the Rent Act sections 4 to section 7, and some of the rules only apply to contracts on certain premises.

These also means that if a contract is oral only, the tenancy agreement will be deemed to have been concluded subject to the provisions of the Rent Act unless otherwise provided in the agreement can be proved by the landlord. If the Rent Act gives the opportunity to choose between different possibilities or if the Rent Act (or the Housing Regulation Act) demands certain specifications in the contract, the

contract will be interpreted to the benefit of the tenant, or the specifications not mentioned will not be part of the contract – e.g. this can have the effect that the landlord cannot raise the rent.

If there is a contract in writing – which there is in general – it will most often – and to the benefit of both parties involved – contain information on the address of the rented home information on, whether the dwelling is an apartment, a house or a single room, the area and how many rooms are included, the rent and where it has to be paid including any other costs, deposit, regulation on who has the obligations on maintenance and other generally important features. No description of the interior will be included. The standard contract (most often used) also leaves the possibility for the landlord to mark up whether the dwelling has been renovated before the tenant is moving in.

- **Duration: open-ended vs. time limited contracts (if legal, under what conditions?)**

Tenancy contracts can be entered into for a limited (if it is warranted by the landlord's own situation) or for an unlimited period, which is the general rule if nothing else is agreed upon.

That the reasons for a time limited contract must be warranted by the landlord's own situation means, that the landlord e.g. is not able to sell the property at the moment, or if he has to move abroad for a time limited period. It is difficult to state all valid reasons, and often the courts will set aside time limitations due to this.

There is not a mandatory minimum or maximum duration for limited periods of a tenancy contract. It is possible to prolong a limited contract if it is still warranted by the landlord's own situation at the time of the prolongation. Automatic renewals without due course will almost certainly be overruled.

In principle, a time limited tenancy agreement implies less extensive rights for the tenants than under the general rules in the Danish Rent Act, and regardless of the landlord having a valid reason to lease on a fixed-term basis, any provision for a fixed term may be set aside in municipalities with housing regulation, if it is assessed that, overall, the tenancy agreement contains terms and conditions that are more onerous for the tenant than the terms and conditions that apply to other tenants in the same property.

- **Which indications regarding the rent payment must be contained in the contract?**

There is no mandatory regulation on this. In the Rent Act it is stated though, that if the rent is not set in the contract or in any other way (e.g. by oral agreement), the standard rules apply. This means that the tenant can go to the Rent Tribunal to get rent set correctly. This is a theoretical situation though due to the fact that almost every contract is in writing and will include indications of the size of the rent, which has to be paid.

The landlord decides where and how the rent and related bills shall be paid. Payment

can, however, always be made to a bank, including, if applicable, the postal service. The rent is normally due on the first day of each month, but the parties are free to agree upon any another date. Where the due date for payment falls on a public holiday, a Saturday or the Danish Constitution day, the due date shall be deferred to the next following weekday.

The contract will most often contain information on where and when the tenant must pay the rent. It is the obligation of the tenant to pay the rent even if he does not get a demand for collection from the landlord every month. The landlord may terminate the tenancy agreement without notice in case of default in the punctual payment of rent (or other money liability).

- **Repairs, furnishings, and other usual content of importance to tenant**
  - **Is it legal for the landlord to shift the costs for certain kinds of repairs (if yes, which?) to the tenant?**

In general the answer is no. But if the tenant breaks something (this is breach of contract then), he has to pay for it.

It is stated in the Rent Act directly that the landlord shall keep the property and the premises in proper repair at all times. All installations for drainage, supplies of light, gas, water, heating and cooling shall be maintained in a good and serviceable repair. The landlord shall likewise be responsible for keeping the premises clean and for usual lighting outside and inside the property and the means of access to the premises; also, the landlord shall be responsible for keeping pavement, courtyard and other communal facilities clean.

Papering, painting, plastering or other repairs occasioned by deterioration due to wear and tear shall be carried out as often as necessary in view of the character of the property and the premises. The landlord may do this, but it is legal to make an agreement stating that the tenant is responsible for whitewashing, painting and papering. Then the tenant must pay for this. The tenant and the landlord may also mutually agree on a different distribution of the maintenance obligations, e.g., so that the tenant assumes the responsibility for maintaining and, if necessary, renewing toilets, water taps, refrigerators, kitchen tables, mixer taps, window panes, floors, floor covering and the like. Arrangements, in accordance with which the tenant takes on the responsibility to maintain anything other than locks and keys, must be stated in the tenancy agreement.

- **Is the landlord or the tenant expected to provide furnishings and/or major appliances?**

It is the landlord's obligation to provide major appliances. The standard of housing in Denmark is generally high so there is no general problem on lack of major appliances in rented apartments.

There is no specific regulation on which appliances that has to be provided. In accordance with the Rent Act, as from the agreed commencement of the tenancy and throughout the term thereof, the landlord shall make the premises available to the tenant in a reasonable state of repair and condition. As at the date of possession the

premises shall be clean, window panes shall be intact and all external doors shall be provided with locks in good working order and fitting keys. This also means that the rented apartments must be equipped with all normal household appliances – e.g. heating and water supply.

It is not normal that a rented apartment is equipped with furniture and the tenant cannot demand it. It is legal to make such arrangements though

- **Is the tenant advised to have an inventory made so as to avoid future liability for losses and deteriorations (especially in the case of a furnished dwelling)?**

Yes. The tenant must be aware of list of inventory (if the contract does not include one). The tenant might be liable for breaking the furniture and other inventory so the tenant must make sure that the contract/ list of inventory is very precise on the descriptions on what furniture the landlord will provide and which inventory that is in the apartment besides that as well.

- **Any other usual contractual clauses of relevance to the tenant**

A standard contract is used in the main part of all agreements in the private rented sector. This contract has all relevant clauses included – and it leaves space to fill any special agreements between the landlord and the tenant.

It is relevant (and usual) to state in the contract who is responsible for what kinds of maintenance works and repairs which has to be done inside the apartment. This is also relevant, when the tenant is moving out (to find out whether the tenant is liable for any damage on for not maintaining the rented apartment in proper condition). It cannot be agreed that the property shall be in better condition at the termination of the tenancy, than it was at the commencement of the tenancy.

If the contract is time-limited is has to be stated in the contract.

- **Parties to the contract**
  - **Which persons, though not mentioned in the contact, are allowed to move into the apartment together with the tenant (partner, children etc.)?**

Members of the tenants “household” are allowed to live in the apartment with the tenant. A “household” can consist of the tenants spouse, girlfriend/boyfriend if not married, children and in some cases other persons as well – e.g. cousins or other family members who has not got their own household and close friends.

The term “household” is not started exactly in the Rent Act. Therefore it the definition can be subject to some uncertainty when not talking about spouses, girlfriend/boyfriend if not married or children. When determining whether a person is a household member one must look at the way the persons live together. Sharing rooms, cooking and eating together, and having some sort of joint economic relations are all indication of a "household". A guest or a sub-letter is not a member of the household.

When it comes to other persons the tenant must be aware of the fact that if this person cannot be considered as a member of the tenants' household, the tenancy contract can be terminated if the person in question does not move out again.

- **Is the tenant obligated to occupy the dwelling (i.e. to use as tenant's primary home)?**

As the mail rule the tenant has an obligation to fulfill the tenancy agreement by living in the rented dwelling. The landlord may terminate the tenancy agreement without notice where the tenant has vacated the premises out of time without any agreement with the landlord.

The tenant is not obligated to live in the dwelling at all times all year. The tenant can live at a holiday home or similar for the summer or another place – maybe caused by temporary work obligations – for a longer period, but if the tenant leaves the dwelling permanently to live another place it may be a breach of contract.

There are no specific rules regarding holiday homes. Tenancy agreements regarding holiday homes will most often be fixed termed. If they are not (fixed termed) the same rules as for permanent homes applies in principle.

- **Is a change of parties legal in the following cases?**
  - **divorce (and equivalents such as separation of non-married and same sex couples);**

In case of the tenant's separation or divorce or annulment of the tenant's marriage, the grant or decree thereof may specify if necessary, which of the spouses shall be entitled to continue the tenancy. This also means that the tenant and his/her spouse can make an agreement on, who can stay in the apartment. The same rules apply for same sex couples. The landlord cannot object to this.

Where parties, having for not less than 2 years been living together in the same household, separate, they may agree which of them will be entitled to continue the tenancy of their joint home. In the absence of such agreement, and on special grounds including in particular the welfare of any minor children, it may be decided by court order which of the parties will be entitled to continue the tenancy.

The rules apply for tenants who were married or living together as married persons. If e.g. parents and their grown up children living at home "separate", these rules does in general not apply.

Where the tenant has deserted his or her spouse, the said spouse is entitled to continue the tenancy.

- **apartments shared among students (in particular: may a student moving out be replaced without permission of the landlord);**

No specific rule applies on this subject. This means that no tenant can move out and be replaced without permission of the landlord. If some of the tenants move

(consecutively) they will still be jointly liable for the rent until the landlord accept otherwise – even though another tenant moves in.

- **death of tenant;**

On the death of a tenant, a surviving spouse is entitled to continue the tenancy. Where the tenant dies without leaving a spouse, any other person with whom the deceased tenant had cohabited for a period of not less than 2 years preceding the death may continue the tenancy.

In case of the tenant's death, both the landlord and the estate of the deceased tenant are generally entitled to terminate the tenancy, giving the usual period of notice, whether or not the tenancy was entered into for a fixed longer term or subject to a longer period of notice.

- **bankruptcy of the landlord;**

If the landlord goes bankrupt the general rights of the tenant, as stipulated in the tenancy laws, have validity without registration against the landlord's creditors and assignees in good faith. Tenant's rights are therefore ensured if, for example, the property is resold or inherited. The new owner of the property must respect the general rights of the tenant under the tenancy laws. The same applies to agreements on advance payment of rent, deposits, and the like within the terms of the law.

This also means that the tenant is still bound by the contract even if the landlord goes bankrupt. No new contract has to be negotiated and no change of tenant is allowed without permission from the estate of the landlord or a new owner.

- **Subletting: Under what conditions is subletting allowed? How can an abuse of subletting (when the tenant is offered not an ordinary lease contract but only a sublease contract) be counteracted?**

The tenant of a house or an apartment (not of a single room) is always entitled to sub-let up to one-half of the rooms of the flat for residential purposes. The total number of occupants of the house or apartment shall not exceed the number of rooms though.

A tenant is also entitled to sub-let his house or apartment which is let exclusively for residential purposes for a period not exceeding 2 years where the absence of the tenant is temporary and is due to illness, business, studies, placement, etc.

The rules are mandatory - they cannot be derogated to the detriment of the tenant. The landlord may (only) object to the sub-letting where his property comprises less than 13 apartments; or the total number of persons in the flat will exceed the number of rooms; or the landlord may object to the sub-letting on any other reasonable ground.

Sub-letting agreements shall be made in writing, and the tenant shall submit a copy of the sub-letting agreement to the landlord prior to the commencement of the sub-letting period. Otherwise sub-letting is considered a breach of contract in the

relationship between the landlord and the tenant. This also means that the sub-tenant will have to move out.

The Rent Act regulates sub-letting on the same conditions as “normal” letting. The tenant who is sub-letting will be considered as the landlord in relation to the sub-tenant. This means in general, that there are no grounds for speculating in offering the tenant not an ordinary lease contract but a sublease contract only.

- **Does the contract bind the new owner in the case of sale of the premises?**

Yes. The general rights of the tenant, as stipulated in the tenancy laws, have validity without registration against the landlord’s creditors and assignees in good faith. Tenant’s rights are therefore ensured if, for example, the property is resold or inherited. The new owner of the property must respect the general rights of the tenant under the tenancy laws. The same applies to agreements on advance payment of rent, deposits, and the like within the terms of the law.

- **Costs and Utility Charges**

- **What is the relevant legal regulation of utilities (i.e. the supply of water, heating and electricity)? Must the landlord or the tenant conclude the contracts for provision of utilities?**
- **Which utilities may be charged from the tenant by the landlord? What is the standard practice?**

The landlord may (only) make the tenant pay for power, heating, water, wireless signals and cable-TV. No other utility is under the authority of the Rent Act. In properties, where the landlord supplies heating and hot water, and in properties, where payment for water is made in accordance with consumption meters, the tenant, as a principal rule, pays an amount on account to cover the landlord's expenses. The costs of the heating and hot water supply of the property cannot be included in the rent. The same applies to the water consumption expenses, if these are apportioned on the basis of meters. This, however, does not apply to separate rooms for residential purposes, where the costs of heating and water consumption may be included in the rent. Where the landlord does not provide the supply of electricity, the tenant shall enter into an agreement with an electricity supplier and pay for this separately.

It is sometimes arranged for the tenant to pay the supplier directly. This may be possible where the rented property is a single house or a condominium. If so the supply of utilities does not form part of the tenancy agreement. It is legal to make such arrangement if it is possible. This will primarily be in single houses and not in larger dwellings with several rented apartments.

Otherwise the landlord shall forward accounts for the actual expenses and amounts paid on account during the accounting period upon the expiry of the accounting period for water and heating consumption. Where the landlord does not provide the

supply of electricity, the tenant shall enter into an agreement with an electricity supplier.

Where a defect relates to the supply of light, gas, heating, cooling, etc., to the premises, the tenant may gain access to the installations with assistance from the bailiff in order to remedy the defect.

- **Is the tenant responsible for taxes levied by local municipalities for the provision of public services (e.g. for waste collection or road repair)?**

In general the answer is no. The landlord may (only) make the tenant pay for power, heating, water, wireless signals and cable-TV. No other utility is under the authority of the Rent Act. This means that the landlord cannot make the tenant pay for other public services directly.

It is possible to announce increases in the rent in consequence of increases in the property taxes. Waste collection is often levied by local municipalities as a part of public services. If taxes are dropped or reduced, the landlord shall, effective from the time of reduction, reduce the rent by a matching amount for the flats and premises, in whose rent the expense has been included.

- **Is it lawful to shift condominium costs, and if yes, which ones, onto the tenant (e.g. housekeeping costs)?**

No, this is not legal. The landlord may (only) make the tenant pay for power, heating, water, wireless signals and cable-TV. No other utility is under the authority of the Rent Act. This also goes for condominiums.

- **Deposits and additional guarantees**

- **What is the usual and lawful amount of a deposit?**

The landlord may demand payment of a deposit held as security for the tenant's obligations upon vacating the premises. This includes rent that has not been paid as well as any claims against the tenant regarding maintenance or breach of contract. The deposit may correspond to up to 3 months' rent and this is usual, but it can be negotiated. If the landlord finds it difficult to find a tenant, he might agree to a lower deposit.

At the time of the signing of the agreement, the landlord may further demand an advance payment of rent equivalent to up to 3 months' rent. Such advance payment of rent can cover the rent of the 3 final months of the period of the tenancy.

In case of rent increases, an adjustment of deposit and advance payment of rent may be required. The increase may be charged in equal monthly instalments over the same number of months as the proportion of the amount and the rent at the commencement of the tenancy. It should be specified in the charges of rent what amount constitutes the actual rent and what amounts constitute regulations of advance payment of rent and deposit.

- **How does the landlord have to manage the deposit (e.g. special account; interests owed to the tenant)?**

The landlord does not have to manage the deposit in any special way or register it anywhere. He can put the amount in to his bank account or use as he pleases. No interest will be owed to the tenant. The only obligation is that the landlord is able to pay back the deposit when tenant moves – and the deposit is not used in order with the contract.

- **Are additional guarantees or a personal guarantor usual and lawful?**

It can be lawful if the tenant is allowed to make changes to the rented apartment. Where the tenant e.g. places an antenna on the property or install a dishwasher, the landlord may require the tenant to pay a reasonable deposit by way of security for the cost of removing the antenna, dishwasher etc. and reinstating the premises upon vacation by the tenant. This is only lawful though if the tenant does not have insurance covering damages from such appliances.

- **What kinds of expenses are covered by the guarantee/ the guarantor?**

In cases stated just above a guarantee/deposit must cover loss or damage to the system in question (e.g. water supply to the whole building or damage to floors, ceiling, roof etc.) as well as for the society to pay the cost of removal of the system and reinstatement upon discontinuance.

### **3. During the tenancy**

#### **3.1. Tenant's rights**

- **Defects and disturbances**
  - **Which defects and disturbances are legally relevant (e.g. mould and humidity in the dwelling; exposure to noise e.g. from a building site in front of the dwelling; noisy neighbors; occupation by third parties)?**

It is not easy to state clearly which defects are legally relevant for a tenant.

Where the premises are not in such a state of repair and condition at the time of possession or during the continuance of the tenancy agreement as the tenant is entitled to expect due to the nature of the legal relationship with the landlord this is a legally relevant issue. This could be e.g. when the premises are exposed to significant noise or other inconveniences caused by a building site in front of (or

inside the house in other apartments). Noisy neighbors could this way also be a defect because the landlord shall ensure that there is peace and order in the property. If the landlord does not take the relevant steps to keep the peace in the property (by e.g. terminate the contract of the tenant that makes the noise) it could be a breach of contract under which the (other) tenants could claim a reduction of the rent and/or claim damages.

- **What are the tenant's remedies against the landlord and/or third parties in such situations (e.g. unilateral rent reduction vs. rent reduction to be allowed by court; damages; "right to cure" = the landlord's right to repair the defect; the tenant first repairs the defect and then claims the costs from the landlord)**

Where the premises are defective, and where the landlord fails to repair the effect immediately, or where it cannot be repaired within a reasonable time, the tenant may terminate the agreement without notice if the defect is deemed to be material, and the landlord is deemed to have acted fraudulently. Where the defect has been repaired before the tenant terminates the agreement, the tenant may not subsequently rely on the defect as a ground for termination.

The tenant may claim a proportionate reduction of the rent for any period during which a defect reduces the value of the premises to the tenant. The tenant may also claim damages where, at the time of the agreement, the premises did not contain certain qualities which must be assumed to be warranted, or where the landlord has acted fraudulently. The same shall apply where the premises are subsequently damaged due to the landlord's negligence, or where any other obstacle or impediment to the tenant's right of use arises on grounds for which the landlord is responsible.

Where the use of the premises is wholly or partly contrary to legislation, other government rules or regulations, easements, covenants or other interests affecting the property in force at the time of the agreement, the tenant may claim a proportionate reduction of the rent as well as damages. In addition, the tenant may terminate the agreement where the use is being significantly restricted, or where the landlord has acted fraudulently.

Where a tenancy is terminated prematurely owing to other interests in the property - apart from the cases listed just above - the tenant may claim damages from the landlord. Where the tenancy is terminated prematurely due to an order issued by public authorities prohibiting the use by the tenant on grounds of health etc., the tenant is only required to pay rent until the effective date of the prohibition. If the prohibition only restricts the use in a non-material way, the tenant may claim a proportionate reduction of the rent.

- **Repairs of the dwelling**
  - **Which kinds of repairs is the landlord obliged to carry out?**

The landlord must keep the property and the premises in proper repair at all times both inside and outside. All installations for drainage, supplies of light, gas, water, heating and cooling shall be maintained in a good and serviceable repair. The landlord shall likewise be responsible for keeping the premises clean and for usual lighting outside and inside the property and the means of access to the premises; also, the landlord shall be responsible for keeping pavement, courtyard and other communal facilities clean.

Papering, painting, plastering or other repairs occasioned by deterioration due to wear and tear shall be carried out as often as necessary in view of the character of the property and the premises. The landlord's duty to maintain the apartment by whitewashing, painting and papering shall be deemed to be discharged upon payment from time to time by the landlord. The tenant may require the landlord to whitewash, paint and paper the flat as and when required, and any costs incidental thereto may be paid out of the balance available on the "maintenance account" which is hold for every apartment – unless it is agreed upon in the tenancy contract, that the tenant is responsible for the internal maintenance. Such agreement is legal.

When the landlord is responsible for carrying out the internal maintenance of the property, the tenant shall only be met with demands to paint etc., if the tenant has caused damages to the property.

- **Does a tenant have the right to make repairs at his own expense and then deduct the repair costs from the rent payment?**

If the premises are not in such a state of repair and condition at the time of possession or during the continuance of the tenancy agreement as the tenant is entitled to expect due to the nature of the legal relationship with the landlord, and where the landlord fails to remedy the defect upon being given notice requiring such remedy, the tenant may remedy the defect at the landlord's expense. But in general this does not mean that the tenant can deduct the cost from the rent payment. The tenant must be very careful with this because the landlord can terminate the tenancy agreement if the rent is not paid in full and the landlord does not agree to the size or the purpose of the cost of the repair.

Instead the tenant must take his claim to court. If the tenant gets a court decision stating that the cost of the repairs may be hold at the landlord's expense, then the tenant can deduct the repair costs from the rent payment.

- **Alterations of the dwelling**
  - **Is the tenant allowed to make other changes to the dwelling?**
    - **In particular, adaptations for disability (e.g. building an elevator, ensuring access for wheelchairs etc.)**

The tenant of a flat or a room for all-year accommodation is entitled to install aids for the disabled or elderly etc. under the provisions of the Act on Social Services if the

municipal authority guarantees the payment of reinstatement costs upon vacation. The tenant shall notify the landlord prior to any such installation

- **Affixing antennas and dishes**

The tenant is entitled to mount antennas or dishes on the property according to the landlord's instructions for the reception of radio and television programs. Likewise, the tenant is entitled to establish a cable connection for the supply of radio and television programs or access to electronic communication services for the property if the option for connection to cable TV or a similar shared network is available in the area. The landlord may require removal of the tenant's antenna and reinstatement upon the tenant's vacation of the premises. The tenant's right to place radio and television antennas etc. shall not apply where the landlord proves that the positioning would damage the property or the tenants. Also, the right shall not apply where the tenant may have access to a desired program either by way of the landlord's common television supply or through a shared antenna system established by the tenants.

Where the tenant places an antenna on the property, the landlord may require the tenant to pay a reasonable deposit by way of security for the cost of removing the antenna and reinstating the premises upon vacation by the tenant.

- **Repainting and drilling the walls (to hang pictures etc.)**

The tenant is allowed to repaint walls, ceilings and windows, drill walls, make holes in ceilings to put up lighting etc. unless specifically stated otherwise in the tenancy agreement. Changing the dwelling e.g. by removing an internal wall would be considered as a breach of contract where the tenant has neglected the premises and fails to repair the premises without delay upon notice by the landlord requiring the tenant to do so.

In all circumstances the tenant is liable for any damages caused by such actions. If he then tenant e.g. paints the walls in an odd colour, the tenants will be liable for the cost of repainting when the tenant moves out of the apartment.

- **Uses of the dwelling**

In general the tenant shall observe the general rules and regulations applicable to the property and shall comply with any other reasonable directions intended to preserve the state of repair and proper use of the premises.

- **Are the following uses allowed or prohibited?**
  - **keeping domestic animals**

The tenant is allowed to keep animals if agreed upon in the tenancy agreement. Keeping animals without permission can be a breach of contract that will allow the

landlord to terminate the agreement. If no agreement has been made the tenant would probably not be allowed to keep animals besides smaller fish tanks and other small animals that makes no smells or noise.

- **producing smells**

It is not easy to give a direct answer to this. The tenant shall use the premises in a proper and reasonable manner with respect to the landlord, the building and other tenants. When producing smells does not bother the other tenants – e.g. if the smell only appears now and then when cooking – it is allowed. This means that producing smells also can be prohibited if they bother the other tenants on a more regular basis.

Smoking is another example. Smoking can be prohibited. If smoking is not prohibited by terms of the tenancy agreement – then smoking is allowed on the tenants own premises. It could be argued that the smell from smoking is a bother but no tenant's has been evicted for smoking yet.

- **receiving guests over night**

Receiving guests overnight is allowed. The tenant should be aware of the fact that he is liable for any damage caused by improper conduct by any third party he has admitted to the premises.

- **fixing pamphlets outside**

No regulation on this. Same rules applies as stated above and just below – the tenant must not without the landlord's consent use the property for other purposes than stipulated in the agreement. The tenant shall use the premises in a proper and reasonable manner with respect to the landlord, the building and other tenants.

- **small-scale commercial activity**

The tenant must not without the landlord's consent use the property for other purposes than stipulated in the agreement. This means that if the tenancy agreement states that the dwelling shall be used for residential purposes only, the tenant cannot use the dwelling in total or partly to any other purpose e.g. business purposes. Where the premises are being used otherwise than agreed and the tenant fails to discontinue such use despite the landlord's objection there will be a breach of contract and the landlord may terminate the contract without further notice.

### **3.2. Landlord's rights**

- **Is there any form of rent control (restrictions of the rent a landlord may charge)?**

Yes. There is contractual freedom in connection with the establishment of tenancy agreements. However, the rent legislation contains a number of mandatory invalidity rules which mean that the rent may be reviewed at any time if the agreed rent has been determined in accordance with the legislation.

4 different rent control systems exist simultaneously. All types of rented dwellings in Denmark are as a general rule subject to rent regulation. Of the four types of rent regulation market rent is the only one which actually relates to market forces and therefore supply and demand.

As stated above the rules on rent regulation/rent control are in many ways difficult to understand and interpret and it is not simple to give a short overview on the principles. This also means that it is not possible for lay people (tenants as well as landlords) to properly calculate the maximum rent applicable to a particular tenancy. No statistical devices are available.

The tenant can in some cases use the rent stated in other tenancy agreements to try to prove that his rent is too high. Such information though is not public available. The involved parties will have to find the information themselves. This if done by contacting other tenants (through an association or directly). This goes for landlords as well. Often it is the attorneys involved who through their network finds comparable agreements.

After the contract is concluded the tenant – if he or she wishes to – can go to the Rent Tribunal the day after the contract is signed and gets the rent which has been agreed upon regulated in accordance with the Rent Act or the Housing Regulation Act. The decision of a Rent tribunal can be referred to a court by either party. If the rent is reduced the tenant may claim repayment of the excessive amount paid. In some cases proceedings for a rent reduction shall be filed within one year from the initial date of payment of the rent or the increased rent. If the tenant fails to make proceedings in these cases in time he may lose his right to a rent decrease.

- **Rent and the implementation of rent increases**
  - **When is a rent increase legal? In particular:**
    - **Are there restrictions on how many times the rent may be increased in a certain period?**

As far as tenancies, to which the Housing Regulation Act applies, are concerned, the rent can be raised when the running costs exceed the existing rent and when improvements have been made. There are no restrictions on how often this it is possible to demand an increase.

The rent of most other tenancies can be raised, when the value of the tenancy significantly exceeds the existing rent and similarly when improvements have been made. Such rent increase can be demanded every second year.

As an exception to those rules on regulation of the rent described above, rent increases by specific amounts at specific dates – so-called “stepwise rent increase” (Rent Act section 53 subsection 2) – may be agreed, in both regulated and unregulated municipalities. The period in which an agreement on stepwise rent increase is valid and the specific dates on which the rent increases will become effective shall be laid down at the commencement of the tenancy. The rent increases shall be specified as specific amounts, so that the tenant gets a clear picture of the development of the rent. In the case of tenancies subject to the rules on rent not

exceeding the amount required to cover the necessary operating costs for the property, the stepwise rent increase must not, at any time, exceed the said amount. For other tenancies the stepwise rent increase, as a principal rule, must not, at any time, substantially exceed the value of the property.

If an agreement on free regulation of the rent has been made (where applicable), it may be agreed that the rent in the period of the tenancy shall be regulated either in accordance with the net retail price index or by specific amounts on specific dates (stepwise rent increase). The agreement must be stated in the tenancy agreement otherwise it is not valid.

- **Is there a possible cap or ceiling (fixed by statute or jurisprudence) which determines the maximum rent that may be charged lawfully?**

As mentioned above 4 different rent control systems exist. These systems also have an effect on demands for a rent increase. This means that the rent – after the increase – may not exceed to maximum rent in accordance with the rent control system that applies. This in other words means that the landlord may only demand a rent increase when the actual rent is somewhat below the maximum.

- **What is the procedure to be followed for rent increases? To what extent can the tenant object to a rent increase?**

A demand for a rent increase must normally be made in writing; it cannot come into effect until three months after the demand has been received by the tenant and it must state the reasons for the increase and contain information about the tenant's right to raise an objection. The demand for an increase in rent is void if it fails to comply with these requirements.

The tenant is always entitled to raise an objection. The objection must be raised in due time. This is generally 6 weeks after receiving a demand for a rent increase. If the tenant does so, the landlord shall make a claim to the Rent Tribunal if he wants to maintain the demand. If the objection is not made in due time, the rent increase stands, and the tenant will have to pay the higher rent (but the tenant can at all times make a claim for a rent reduction to the Rent Tribunal himself).

A rent increase may be demanded notwithstanding any contractual security of tenure where the landlord has reserved the right to adjust the rent.

- **Entering the premises and related issues**

- **Under what conditions may the landlord enter the premises?**

The landlord or the landlord's agent may be admitted to or enter upon the premises as and when the situation so requires. This means that the landlord must have a specific reason to get admission e.g. if he is selling the property and he needs to

show the premises to potential buyers or a real estate agent. Another example could be if the landlord has received complaints from other tenants on that there might be something wrong in the premises (smelling, noises etc.).

The landlord is entitled to 6 weeks' prior notice to start work on the premises where such work does not constitute a major inconvenience to the tenant. For example if the landlord is renovating the property and he needs to go into every apartment to change pipelines, windows, heating systems etc.

The tenant is entitled to 3 months' prior notice before the start of any additional work – always provided that the landlord may carry out urgent repairs to the premises without notice. For instance if a water is pouring out of a drain making damage to the whole building and the tenant is away on holiday.

- **Is the landlord allowed to keep a set of keys to the rented apartment?**

No – not without an agreement with the tenant. But a lot of landlords have it anyway. The tenant has no protection against this other than reporting it to the police (intrusion) – and only if the landlord actually uses the key.

- **Can the landlord legally lock a tenant out of the rented premises, e.g. for not paying rent?**

No – under no circumstances. That would be considered as unlawful self-help. On termination by the landlord, the tenant shall vacate the premises immediately. If this does not happen, the landlord may start proceedings at the Bailiffs Court at once and evict the tenant through here. On termination by the landlord, when the tenant has not paid the rent, the tenant shall vacate the premises. If this does not happen, the landlord may start proceedings at the Bailiffs Court at once and evict the tenant through here. This is the only way for the landlord to physically get the tenant out of the rented premises and denying him access again.

- **Can the landlord legally take or seize a tenant's personal property in the rented dwelling, in particular in the case of rent arrears?**

No, this would not be legal before termination of the contract. If eviction procedures have begun, and the tenant has not moved out his personal property from the rented dwelling, the landlord has to take care of it. If the tenant has been set out of the rented dwelling by enforcement proceedings, the landlord must remove the tenant's property from the rented dwelling and out in front of the dwelling ("to the pavement"). The Police then must make sure, that the property is taken care of – e.g. in a storage building.

The landlord's expenses on this, he can claim from the removed tenant, but he may not sell the property and keep the money to cover his expenses. The Police can decide to sell the property after some months has gone without a reaction from the (former) tenant. The tenant cannot claim the property without paying the expenses held to store it. The tenant will have to pay the costs for keeping the personal property in storage before he can get it out.

## **4. Ending the tenancy**

### **4.1. Termination by the tenant**

- **Open ended contract (if existing): under what conditions and in what form may the tenant terminate the tenancy?**

Open ended (unlimited) contract exist and they are the most common contracts, because there are some restrictions on when a time-limited contract is legal.

Unlimited tenancies may normally be terminated by the tenant giving three months' notice. A longer period of notice is legal but not common.

The notice given by the tenant should be in writing. The tenant should be aware, that it is not always possible to give notice by email. Only when it has been agreed upon between the landlord and the tenant to exchange information through email it is legal to give notice by email.

- **Under what circumstances may a tenant terminate a tenancy before the end of the rental term (e.g. unbearable neighbours; bad state of dwelling; moving for professional reasons)?**

Where the premises are defective, and where the landlord fails to repair the defect immediately, or where it cannot be repaired within a reasonable time, the tenant may terminate the agreement without notice if the defect is deemed to be material, and the landlord is deemed to have acted fraudulently. Where the defect has been repaired before the tenant terminates the agreement, the tenant may not subsequently rely on the defect as a ground for termination.

The right to terminate the contract goes for all reasons where the tenant can prove, that the rented place is defective, so that he cannot live there anymore, but it is doubtful whether noises from neighbors is enough. Often due to the fact that it is hard to prove. In such case the tenant instead must try to make the landlord terminate the contract with the noisy neighbors. If the landlord will not do this, the tenant might be able to terminate the contract, but he still has to prove, that he cannot live in the rented dwelling because of the noise.

If there is no defect as stated just above, as far as fixed-term tenancies are concerned, neither party can give notice to terminate the contract unless otherwise agreed. The agreement must be stated in the tenancy agreement. If it has been mutually agreed by the parties that the tenancy during the period of the tenancy should be terminable, the rules of the Rent Act apply. Then the tenant has a three month notice period.

- **May the tenant leave before the end of the rental term if he or she finds a suitable replacement tenant?**

No. The landlord is free to choose a new tenant as he wants to. The landlord can reject any new tenant during a fixed term or even after.

But if the tenant vacates the rented premises before the end of the notice period, the

landlord shall seek to re-let the premises. Any amount recouped by the landlord, or any amount which the landlord ought to have recouped by such re-letting shall be deducted from his claim against the tenant. This means that if the tenant finds a suitable tenant that the landlord rejects, the landlord might not be able to charge rent from the tenant who is moving out for some of the remaining rental term. But this is uncertain, so the tenant should be aware that the starting point is that the landlord cannot leave without the landlord's acceptance in this situation.

#### **4.2. Termination by the landlord**

- **Open ended contract (if existing): under what conditions and in what form may the landlord terminate the tenancy (= eviction) (e.g. the landlord needs the house for himself or wants to renovate and use it differently in the future)?**

Ordinary period of notice also for the landlord is 3 months (expiring on the first working day of a month, not being a day preceding a public holiday).

Tenancies cannot be terminated with notice by the landlord except in the circumstances mentioned in the Danish Rent Act section 83. The conditions under which such termination may be allowed are stated in section 84.

Where the landlord intend to use the premises for his own purposes. He may terminate the contract with 1 years notice. Where the tenancy relates to a flat, it is a condition that it is the landlord himself (not his children e.g.) intends to occupy the flat. Where the property is jointly owned by several persons, the owners may only give a residential tenant notice of termination (where the flat is owner-occupied not previously occupied by the landlord, it is a further condition that the tenancy agreement was entered into prior to 1 July 1986).

Termination must be reasonable in view of the circumstances of both parties. In determining this factor, the duration of the landlord's ownership of the property and - for the purpose of terminating a residential tenancy - the tenant's possibilities of finding suitable alternative accommodation should be considered. The tenant's age eventual illnesses etc. may be taken into consideration. This rule also applies where landlord has inherited the dwelling or bought it after sale including public auction.

Where the premises are owner-occupied, the tenancy shall not be subject to the right of termination except where the tenancy agreement has been entered into after conversion of the property into owner-occupied flats, and where the tenant was made aware at the commencement of the tenancy that the premises are an owner-occupied flat and that termination is subject to section 83.

Where the landlord is occupying a flat in the property when giving notice of termination, the landlord shall at the time of such notice offer the tenant to take over such flat.

There is no separate regulation on extraordinary termination (with notice) in the Rent Act. In terms of breach of contract by the tenant the landlords may terminate the contract without notice (in accordance with the Rent Act section 93).

The landlord's notice of termination shall be in writing, specifying out the tenant's right to object. The landlord's notice of termination shall further specify the ground for termination. If the notice does not state the said particulars, it shall be void.

- **Must the landlord resort to court?**

If the tenant refuses to accept the notice of termination, he shall object in writing within 6 weeks from the date of receipt of the notice.

In that case, the landlord shall commence proceedings before the Housing Court within 6 weeks from the expiry of the time limit applicable to the tenant – if the landlord insists on the termination.

In cases of termination without notice, the landlord can go to the Bailiffs Court – if the case is about failing rent payments – or the Housing Court on any other reason for termination.

### **Are there any defences available for the tenant against an eviction?**

There are no rules on protection from eviction in the Rent Act. In some cases due to social legislation the local authorities has an obligation to help the evicted tenant to get a new home e.g. if it is a family with children and/or with social problems.

The tenant may stay in the rented apartment for as long proceedings before the court are in progress. No rules on possible extension of the contract etc. apply. But the tenant shall pay rent for as long as he is living in the premises and until the expiry of the usual period of notice after he has moved out – if the termination proves to be valid. Also, the tenant shall indemnify the landlord from any loss, including the cost of recovering possession of the premises.

Where the matter for which the tenant is blamed is deemed to be immaterial, the landlord is not entitled to terminate the tenancy agreement without notice. This protection of the tenant can only be pleaded in very few cases under special circumstances e.g. when the tenants' bank forgot to transfer the amount to the landlords accounts or if the tenant has been hospitalized and unable to make the transfer on time. Even if the amount in question is very small (less than a month' rent or even just a few DKK) this is not a valid reason alone to find the matter immaterial.

- **Under what circumstances may the landlord terminate a tenancy before the end of the rental term?**

- **Are there any defences available for the tenant in that case?**

No. As stated just above there are no rules on protection from eviction in the Rent Act.

- **What happens if the tenant does not leave after the regular end of the tenancy or does not hand in (all) the keys of the dwelling?**

On termination by the landlord, the tenant shall vacate the premises immediately. If this does not happen, the landlord may start proceedings at the Bailiffs Court at once and evict the tenant through here. This applies when rent or other money liability has

not been paid on time as stated above. Both formal and material objections will be tried by the Bailiffs Court. The Courts decision can be can be brought before the High Courts.

On any other reason for termination without notice the landlord may start his proceedings in the Housing Courts that will try the tenants' formal and material objections against the termination. The Courts decision can be can be brought before the High Courts.

When (if) the landlord gets the verdict, that the termination was valid, the landlord may proceed through the Bailiffs Court and get the tenant evicted with no possible objection from the tenant.

#### **4.3. Return of the deposit**

- **Within what timeframe and under what conditions does the landlord have to return the tenant's security deposit?**

There is no regulation on this. Usually 1-2 months is normal. Then the landlord has time to gather information on cost from the craftsman etc.

This also means that the only thing the tenant can do – if the landlord refuses to pay back the deposit – is to make a claim to the Rent Tribunal. This might take more than 3-4 months.

- **What deductions can the landlord make from the security deposit?**

The landlord may demand payment of a deposit held as security for the tenant's obligations upon vacating the premises. This includes rent that has not been paid as well as any claims against the tenant regarding maintenance or breach of contract.

- **In the case of a furnished dwelling: may the landlord make a deduction for damages due to the ordinary use of furniture?**

In general the answer is no. If it is agreed in the tenancy contract, that the tenant is liable for deterioration due to wear and tear, the tenant might be liable. But this is not a common clause in contracts on furnished homes.

#### **4.4. Adjudicating a dispute**

- **In what forum are tenancy cases typically adjudicated?**
  - **Are there specialized courts for adjudication of tenancy disputes?**

Disputes arising from tenancy agreements are brought before special divisions of the County Courts called the Housing Courts. The only difference between the Housing Court and an ordinary court is that the Housing Court consists of three judges instead of one. Two of them are lay judges nominated by tenants and landlords associations respectively. Most decisions made by the Housing Courts can be brought before the High Courts, and their decisions are only rarely brought before the Supreme Court.

Most disputes must be brought before the Rent Tribunal before it can be brought before the Housing Court. If the tribunal has jurisdiction, the dispute cannot be brought before the courts before the tribunal has made a decision. The Rent Tribunals consist of three members. The chairman must be someone legally qualified, but not a lawyer in private practice. Two lay members are nominated by tenants and landlords associations respectively. The decisions made by the tribunals can be referred to by the courts.

- **Is an accelerated form of procedure used for the adjudication of tenancy cases?**

No, not specifically. If the claim is less than DKK 50.000 it can be brought through a small claims procedure, which is often cheaper and faster. There is no specific regulation on such claims regarding tenancy disputes but the Housing Court is also competent to rule in these cases.

- **Is conciliation, mediation or some other form of alternative dispute resolution available or even compulsory?**

When a dispute is brought before the Housing Court the involved parties are often offered court-based mediation, but it is not used very often. There will be no mediation or alternative dispute resolution if the parties have not made an agreement on this.

## **5. Additional information**

- **How does a prospective tenant proceed in order to get social or subsidized housing (e.g. dwellings offered by housing associations, municipalities, public bodies etc.) or housing allowances?**

As regards ordinary social family dwellings, there are essentially no requirements concerning tenants for them to be taken into consideration in connection with the dwelling. The dwellings are allocated on the basis of a waiting list. The general rule for the letting of social family dwellings is that they are let according to seniority on the waiting list. Some groups of individuals have a right of pre-emption on the waiting list: Families with children have a right of pre-emption concerning larger apartments, and the elderly and disabled have a right of pre-emption concerning certain dwellings that are suitable for the elderly and disabled. People who already have a dwelling in the housing organisation have a right of pre-emption ahead of external applicants (right of promotion).

For housing-related/social purposes, the municipal council may take decisions concerning allocation rights concerning 25% of vacant dwellings for families and young people. The right of allocation takes precedence over the waiting list. Furthermore, rules have been established which are aimed at strengthening the composition of residents in social housing areas, encompassing combined letting, letting in specially designated housing areas and flexible letting rules.

All tenants (either in private or in social rented housing) may be subsidised directly should their income not exceed a certain level. Tenants can receive housing support to help them pay their ongoing housing expenses. Housing support is calculated on the basis of the housing expenses, the size of the dwelling, the household's income and the size of the household.

Housing support for everyone other than those on a state pension is called *boligsikring* ("housing security"). Housing security is only paid for rental properties and these properties are generally required to have a separate kitchen. Housing security is paid to non-pensioners and those granted an early retirement pension in accordance with the regulations concerning early retirement pension following the early retirement pension reform.

Housing support for those on an early retirement pension is known as *boligyldelse* ("housing benefit"). In some cases, tenants can obtain loans to pay the deposit that is required when they move into a new property. Loans for tenant deposits are generally only paid for social housing and certain older dwellings. For refugees and certain other groups, loans may however also be granted for other dwellings.

- **Is any kind of insurance recommendable to a tenant?**

The tenant's personal property should be insured through housing contents insurance. The tenant should make sure such insurance also covers damages from claims regarding any installations in the rented premises (e.g. dishwashers, antennas).

- **Are legal aid services available in the area of tenancy law?**

Consulting a lawyer might be expensive in Denmark, but the Courts however have an obligation to provide guidance on how to fill in forms e.g. to file a complaint before the court or file a defence and how to obtain legal aid and free legal aid and on how to claim under a legal expenses insurance.

If a tenant earns less than DKK 294.000 (2012) and live alone – or living with another person in total less than DKK 374.000 he might be able to get free legal aid if some conditions regarding the case are fulfilled. If the tenants' yearly earnings are below the amounts mentioned and the landlord files a complaint to the Housing Court regarding a case that the tenant has won before the Rent Tribunal, the tenant will always be entitled to free legal aid.

Legal aid insurance is not obligatory. This type of insurance goes with a lot of different other insurance types but typically tenants with only a small income do not have such insurance. If a tenant has legal aid insurance the coverage includes as a minimum all cases where the tenant could obtain free legal aid.

**To which organizations, institutions etc. may a tenant turn to have his/her rights protected?**

The largest tenants' association is called "*Lejernes Lands Organisation*". This association gives advice to tenants (also in social housing) who are members of the organisation and seeks to influence the political agenda in favour of tenants.

Tenant associations have offices throughout the country, and they can be very active locally and can for example provide extensive assistance to tenants who are experiencing problems with their landlord. There are also many smaller umbrella organisations and associations for both tenants and landlords.

[www.llo.dk](http://www.llo.dk) – Lejernes Landsorganisation (nationwide – offices in several cities)

[www.dklf.dk](http://www.dklf.dk) – Danmarks Lejerforening (umbrella organisation – offices in several cities)

[www.kbhlejer.dk](http://www.kbhlejer.dk) – Københavns Lejerforening (Copenhagen)

[www.rlf.dk](http://www.rlf.dk) – Randers Lejerforening (city of Randers)