

PRACTICAL GUIDELINES ON RENTAL AGREEMENTS IN ESTONIA

December 2020

Author: Ingmar Lääts, CEO of Expat Legal OÜ

This document has been developed by Expat Legal OÜ based on the laws of Estonia, the interpretations of the law, practical experience and best practices. It is not intended to cover all possible aspects of rental agreements but give practical guidelines on the most common issues and how to best avoid disputes – it will always be a “work in progress”. In case of a dispute, please consult a legal expert. The document is updated based on changes in laws, new information and other relevant developments.

The guidelines have been divided into 2 bigger chapters (and several sub-sections within Chapters):

- Before signing the agreement and signing of the agreement;
- During the agreement and termination of the agreement.

The guidelines are intended to be used mainly by potential or existing tenants as we focus on the rights and obligations of the tenant.

If you are not capable of doing everything suggested in this document, do not worry. As with everything, use common sense and some calculated risks must always be taken. When in doubt, consult a legal professional.

1. BEFORE SIGNING AND ACTUAL SIGNING OF THE AGREEMENT

In this Chapter we will cover:

- Where to find reliable apartment ads and initial risks & initial payments;
- What should be in the contract?
- What should not be in the contract?
- How to deal with the handover?

1.1 Where to find apartment ads

- The biggest real-estate portal are www.kv.ee and www.city24.ee which are also available in English.
- There are Facebook groups where brokers and landlords advertise their listings – for example “Erasmus in Tallinn/accommodation”.
- It is not so common for owners themselves to list apartments and most use brokers. A lot of private rental ads circulate in Facebook and through “word of mouth”. If you can, post your rental wish on Facebook and have local friends share it. Or ask locals in Estonian related Facebook groups if they no someone renting or if they can share your ad. This has proven to work well although it might take time. Plus you save on the broker fee.
- Outside peak season, AirBnB has a lot of apartments listed with low prices – AirBnB is very popular in Estonia. It can be used to get your first place here and get some local contacts.

There is no harm in asking AirBnB hosts for longer term deals as well. Booking.com and Expedia.com list apartments as well.

- There is a new startup www.rendin.co that offers solutions where the tenant does not have to pay any deposit. It is worth checking out.
- Brokers - Anyone can be a broker in Estonia – it is not a licensed activity (although many brokers are licensed);
- It is common that the tenant pays the broker's fee in Estonia – clarify it beforehand;
- Brokers need to be able to answer all your questions about the property but do not expect everyone to be helpful and friendly – they do not always have your best interest in mind and their main goal is to make money.

1.2 Initial risks and things to consider

- If people are offering rooms in shared apartments – ask for the contact of the owner and their approval. The same applies if someone is offering to sub-let. You see a lot of people advertising a free room in the apartment they live in but you want to make sure it is also the wish of the owner to have a new and additional tenant;
- In case of renting a room, try to clarify what is the common space and also if some parts of the apartment will be rented out additionally in the future. It is not common that apartment sharing people have rules of co-living in place and so it is of course risky in the sense that you will never know the habits of your co-tenants;
- Even in case of a broker, ask for the data of the owner, the exact address and preferably someone to verify the owner (can be done online from the real-estate portal: <https://kinnistusraamat.rik.ee/Avaleht.aspx> BUT only if you have a working Estonian id card) and the existence of the property;
- A simple Google search (or search in Facebook groups) of the property/broker/owner could bring out negative feedback/news so just take the time and do it – asking a local for help here could be useful as well. You can also check for default/non-payment of obligations information: <https://www.creditinfo.ee/maksehaireregister/eraisiku-maksehairete-vaatamine/> (also costs money), www.riigiteataja.ee to check court cases or the Official Journal www.ametlikudteadaanded.ee about whatever notifications there might be involving the landlord;
- If possible, it is useful to do some research of the area and the building (what is nearby, are there some potentially noisy businesses in the building, is it a new building etc. Good to have a chat with a neighbour as well if possible;
- Ask to see the previous communal bills both for summer and winter. Clarify what each line of the bill means;
- Take the time to think through your own needs and the conditions that meet those needs (for example the term/length of the contract).
- Read the agreement through carefully, understand the contents and do not rush. Do not let the landlord or broker rush you by things like “there are a lot of interested people waiting in

queue”. This will be your living space so you want to make the best decision taking into account every possible aspect. There are always other options available.

- Trust your gut – if something seems wrong about the other landlord/broker/place (conflicting statements, not answering questions) then there usually is something wrong.

1.3 Initial payments

- Expect to be asked the broker’s fee (usually equals one months’ rent), first months’ rent and a months’ rent as a deposit;
- If possible, do not make any payments before seeing the apartment, the agreement and also signing it (and understanding the agreement);
- Maximum deposit that can be asked by law is equal to 3 months’ rent and has to be paid only after the agreement has been signed;
- Avoid cash payments – if cannot be avoided, ask for a confirmation to be signed on paper and send a confirmation e-mail later on as well stating the made payment. Many landlords take cash to avoid declaring the rental income and paying income tax on it.

1.4 What should be in the agreement?

- Firstly, there SHOULD be a written agreement – anything verbal is very hard to prove in case of an argument;
- Ask for an English version of the agreement or if in Estonian, even using Google Translate helps you to understand the contents;
- A free sample is available here: <https://www.workinestonia.com/coming-to-estonia/housing-general/sample-residential-rental-agreement-eng/> .
- The law protects the tenant and there are provisions in the law that cannot be changed by the agreement – that does not mean that the landlords/brokers will not try it!;
- The Law of Obligations Act (from paragraph 271 onwards “lease contract”) is available in English:

<https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/515012020004/consolide> .

- The obligation to pay communals (with a specification of each separate cost) has to be stated in the agreement, otherwise the tenant has no such obligation. You would want to see the exact breakdown of the communal costs and also ask for previous invoices to get an idea of the amounts. If the agreement states that you should also pay for the maintenance costs and improvement costs of the whole building then it has to be clearly stated in the agreement. We do recommend not agreeing to this if possible.
- According to law, the tenants can be asked for a deposit of up to 3 months’ rent (there is no obligation to pay more than that). It is not an obligation, the deposit can be smaller and usually is. By law, the deposit has to be held separately in a credit institution and accumulate

at least the average local interest – this clause is probably not implemented much in practice and tenants should not hope to receive their deposit back with interest. At the time of writing these guidelines the interest offered by the credit institutions is also extremely low.

- If you have pets or family members living with you, it should be stated in the agreement that the landlord gives their consent for that. Also subletting is only allowed under a written consent of the landlord – the tenants shall remain responsible also for the person or persons subletting. Bear in mind that for the afore-mentioned reasons sub-letting the apartment on AirBNB for example while you are away on holiday could result in termination of the agreement by the time you get back (the neighbours pay close attention to noise, movement of new people etc).
- It is important to think through if you would like to enter an agreement with a fixed term or without a term as there are different legal implications. The usual practice is to have an agreement for a fixed term (the common term is 1 year).
- An agreement with a fixed term can only be terminated under extraordinary circumstances (non-payment of rent, if the apartment becomes inhabitable etc) – this can of course be positive (the landlord cannot terminate the contract at will) or negative (you as a tenant also cannot get out of the agreement easily). Also if the term runs out the landlord has no obligation to extend the agreement, can raise the rent and also add more conditions – if you do not agree, you have to find another place to live.

1.5 What should NOT be in the agreement?

- Anything in the agreement that contradicts the law is null and void – for example keeping your deposit for 6 months, the obligation to pay for communals not related to the use of the apartment etc. Null and void means the obligation does not exist and has never existed.
- The law says that the landlord cannot impose and contractual penalties on the tenants (in Estonian “leppetrahv”). Contractual penalties are however possible upon breached they have been clearly defined in the agreement for the obligations that do not involve paying money. There are limitations to the amount of the contractual penalty.
- By law the deposit has to be returned if the landlord has not given notice of his or her demands within 2 months of the termination of the agreement – any period longer than that is null and void.

1.6 How to deal with the handover?

- At the handover, parties usually sign a handover act which lists the things in the apartment, the condition of the apartment as well as the readings of different meters such as electricity, gas and water;
- If you notice something damaged then you are advised to make a note of it in the act, take pictures or even make a video of the whole apartment.
- We have seen cases when in used apartments people do not fix certain deficiencies (which seem normal wear and tear, such as kitchen surfaces etc) and the landlord later demands compensation (in practice reduces or keeps the deposit);
- Not everything can be “discovered “ at the handover but you are advised to check if there is running water, if electronics work etc. if you discover something later then immediately send an e-mail stating the deficiency;

- Also, if you do break something or there is an accident of some kind, our advice is to immediately notify and show co-operative and friendly behaviour – it will go a long way;
- What is also important is that the tenants is not financially responsible for the normal wear and tear of the apartment (unfortunately there is no specific list of things that this would include – it is determined case by case).

2. DURING THE AGREEMENT AND TERMINATION OF THE AGREEMENT

2.1 It is advised to record all important communication in written form – e-mail is perfect. Phone calls might be faster but there would not be any proof on information exchanged should there be a dispute later.

It is especially important to notify the landlord of any issues or problems that arise. Even if you notice a fault in the apartment after the handover, send an e-mail stating that so you would have proof that you did not cause it.

If there are other issues that disturb the use of the apartment, also record them on e-mail.

You can also use SMS or Facebook messenger communication of course.

2.2. It is the duty of the landlord to maintain the apartment in a habitable state. This means bigger renovation works should be done by the landlord and the tenant has to bear the inconvenience caused by that. Everyday maintenance should be done by the tenant, like changing of lightbulbs.

2.3 It is common and advisable to clearly agree in the agreement, how many days' notice the landlord has to give before coming to check the apartment. It is not allowed to enter the premises without notifying (unless in emergency situations).

2.4 You are welcome to bring your own furniture and other equipment. If you wish to add things like new lighting, hang pictures etc then you have the obligation to fix the state of the apartment after removing these objects.

2.5 Sub-letting needs a written approval from the landlord.

2.6 You are allowed to have your spouse, underaged children and parents with incapacity to work live with you for no extra rent UNLESS the agreement requires an approval from the landlord. Pay attention to this already at the signing.

2.7 The termination of the agreement has to be done correctly – this means a written notice with compulsory elements has to followed. This is the case for both parties and also it does not matter if the agreement is with a fixed term or with no concrete term (the latter is more uncommon).

It is important to note that if the tenants keeps using the apartment after the term has passed and none of the parties gives notice of termination, the agreement becomes an agreement “without term”.

2.8 It happens often that tenants wish to terminate the agreement before the end of the term (life can have unexpected circumstances). Legally speaking an agreement with a fixed term cannot be terminated before the term unless there are extraordinary circumstances (covered later). It is useful to have a clause in the agreement that allows to terminate the agreement by giving notice of some period of time – normally 2 months. Without such a clause you would have to reach an agreement

with the landlord (always the best option) – termination is thus always possible when parties reach an agreement but that is never certain.

2.9 According to law, in extraordinary circumstances the agreement can be terminated extraordinarily with immediate effect. The law states some circumstances which can be considered such (but the list is not exhaustive) and most commonly the landlord can revert to this in cases of delayed payments or “non-stipulated” use of the apartment.

Termination in case of delayed payment can occur in the following cases:

- 1) *the lessee/tenant is in delay for rent subject to payment, accessory expenses or a significant share thereof on three consecutive due dates;*
- 2) *the amount of rent due exceeds the amount of rent subject to payment for three months;*
- 3) *the amount of the accessory expenses due exceeds the amount of accessory expenses subject to payment for three months.*

“Non-stipulated” use can be generally described as continuous breach of obligations, continuous disturbance of others in the building (loud noise, smoking etc), unauthorized subletting etc.

2.9 It is also important to note that the tenant can also extraordinarily terminate the agreement – for example in case when it is not possible to use the apartment for its intended purpose or there is a health hazard related to the apartment. Also when the landlord wants to raise the rent and you do not agree.

2.10 Upon termination it is common and recommended to sign a handover act stating potential issues or stating the lack of issues/demands towards each other. The landlord has the obligation to immediately check the apartment. In case of faults that cannot be discovered during routine inspection, the landlord has the obligation to notify of them immediately after discovery.

Again it could be useful to make photos and also make a video of the state of the apartment.

2.11 Normally a reasonable cleaning of the apartment is expected – not at professional level but also not leaving trash around or the apartment totally uncleaned. You should remove all items that you have brought to the apartment. If you do not clean at all or leave heaps of trash behind, the landlord can be inclined to order a cleaning service and charge it from your deposit.

2.12 By law, the tenants can demand the return of the deposit if the landlord has not notified of their demands within 2 months of the handover. Normally parties enact a shorter term for the return of the deposit in the agreement.

2.13 The parties can also agree (which we do not recommend) that the tenant has liquidate all traces of normal wear and tear after the rental agreement period.

2.14 In case of disputes that are not resolved amicably, the parties can turn to court. It is recommended to do it with the help of a lawyer.

In Tallinn, there is a pre-court instance called the Tenancy Dispute Board (in Estonian “Üürikomisjon”, <https://www.tallinn.ee/Teenus-Adjucation-of-rental-disputes>) where it is possible to settle disputes faster and also without paying the state fee. Bear in mind all documents in the above-mentioned proceedings have to be in Estonian.