

Bloomington Housing Authority

Grievance Procedure for Public Housing

GRIEVANCE PROCEDURES

Definitions

Grievance: Any dispute which a tenant may have with respect to the Bloomington Housing Authority's (BHA) action or failure to act in accordance with the individual tenant's lease or BHA regulations that adversely affect the individual tenant's rights, duties, welfare, or status.

Complainant: Any tenant whose grievance is presented to the BHA informally or as part of the informal hearing process.

Hearing Officer/Hearing Panel: A person or persons selected in accordance with this grievance procedure to hear grievances and render a decision with respect thereto.

Tenant: A lessee or the remaining head of household of any tenant family residing in housing accommodations owned or leased by the BHA.

Elements of Due Process: . An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:

Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;

Opportunity for the tenant to examine all relevant documents, records, and regulations of the BHA prior to the trial for the purpose of preparing a defense;

Right of the tenant to be represented by counsel;

Opportunity for the tenant to refute the evidence presented by the BHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have; and

A decision on the merits of the case.

Applicability

This Grievance Procedure applies to all individual grievances, except any grievance concerning a termination of tenancy or eviction that involves:

Any activity criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or BHA employees, or

Any violent or drug-related criminal activity *on* or *off* such premises, or

Any criminal activity that resulted in felony conviction of a household member.

The BHA Grievance procedure shall not be applicable to disputes between Residents not involving the BHA or class grievances. The grievance procedure is

not intended as a forum. For initiating or negotiating policy changes between a group or groups of residents and the BHA's Board of Commissioners.

The grievance procedure is incorporated by reference in all Resident/Tenant dwelling leases and will be furnished to each resident and all resident organizations.

Any changes in this grievance procedure will provide for at least thirty (30) days notice to Residents/Tenants and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the BHA before any revisions are made to the grievance procedure.

Pre-Hearing Procedures

Informal Conference Procedures

Any grievance shall be presented orally or in writing to the BHA office. Written grievances must be signed by the complainant. The grievance must be presented within a reasonable time, not to exceed ten (10) days, that is the basis for the grievance. It may be simply stated, but shall specify:

The particular grounds upon which it is based,

The action requested; and

The name, address, and telephone number of the complainant, and similar information about the complainant's representative, if any.

The purpose of the initial discussion is to discuss and to resolve the grievance without the necessity of a formal hearing.

Within ten (10) working days, a summary of this discussion will be given to the complainant by a BHA representative. One copy will be filed in the tenant's file.

The summary will include: names of participants, the date of the meeting, the nature of the proposed disposition, and the specific reasons for the disposition. The summary will also specify the steps by which a formal hearing can be obtained.

Dissatisfaction with Informal Conference

If the complainant is dissatisfied with the proposed disposition of the grievance, s/he shall submit a written request for a hearing within ten (10) working days of the date of the summary of the informal meeting.

The request for a hearing must be presented to the BHA's office legal department.

The request must specify the reason for the grievance request and the relief sought.

Failure to Request a Formal Hearing

If the complainant does not request a formal hearing within ten (10) working days, s/he waives his/her right to a hearing, and the BHA's proposed disposition of the grievance will become final. This section in no way constitutes a waiver of the complainant's right to contest the BHA's disposition in an appropriate judicial proceeding.

The written request will specify:

The reasons for the grievance and

The action of relief sought from the BHA

Right to a Hearing

After exhausting the informal conference procedures outlined above, a complainant shall be entitled to a hearing before a hearing officer.

The head of household or other adult household member must attend the hearing.

If rescheduling of the hearing is necessary, the hearing must be rescheduled at least twenty-four (24) hours in advance of the scheduled hearing time or the complainant waives their right to a hearing.

If the complainant fails to appear within thirty (30) minutes of the scheduled time, the complainant waives their right to a hearing.

The BHA will provide reasonable accommodation for persons with disabilities to participate in the hearing. The BHA must be notified within twenty-four (24) hours of the scheduled time if special accommodations are required.

Selection of Hearing Officer

A grievance hearing shall be conducted by an impartial person or persons appointed by the BHA other than the person who made or approved the BHA action under review, or a subordinate of such person.

Procedures to Obtain a Hearing

Informal Prerequisite

All grievances must be informally presented as a prerequisite to a formal hearing.

The hearing officer may waive the prerequisite informal conference if, and only if, the complainant can show good cause why s/he failed to proceed informally.

Escrow Deposit

Before a hearing is scheduled in any grievance involving an amount of rent the BHA claims is due, except grievances concerning imputed welfare benefits or use of minimum rent, the complainant shall pay to the BHA all rent due and payable as of the month preceding the month in which the act or failure to act took place. Grievances concerning imputed welfare benefits and minimum rents are exempt from the escrow deposit requirement.

The complainant shall thereafter deposit the same amount of the monthly rent in an escrow account each month until the complaint is resolved by decision of the hearing official or panel.

The BHA may waive these escrow requirements in extraordinary circumstances.

Unless so waived, failure to make the required escrow payments shall result in termination of the grievance procedure.

Failure to make such payments does not constitute a waiver of any right the complainant may have to contest the BHA's disposition of the grievance in any appropriate judicial proceeding.

Scheduling

If the complainant complies with the procedures outlined above, a hearing shall be scheduled by the hearing officer promptly within ten (10) working days at a time and place reasonably convenient to the complainant and the BHA.

A written notification of the date, time, place, and procedures governing the hearing shall be delivered to the complainant and the appropriate BHA official.

Hearing Procedures

The hearing shall be held before a hearing officer.

The complainant shall be afforded a fair hearing and be provided the basic safeguards of due process to include:

The opportunity to examine and to copy before the hearing, at the expense of the complainant, all documents, records and regulations of the BHA that are relevant to the hearing with at least a 24 hour notice prior to the hearing. Any document not so made available after request by the complainant may not be relied upon by the BHA at the hearing.

The BHA shall also have the opportunity to examine and to copy at the expense of the BHA all documents, records and statements that the family plans to submit during the hearing to refute the BHA's inaction or proposed action. Any documents not so made available to the BHA may not be relied upon at the hearing.

The right to a private hearing unless otherwise requested by the complainant.

The right to be represented by counsel or other person chosen as a representative

The right to present evidence and arguments in support of the complaint, to controvert evidence presented by the BHA, and to confront and cross-examine all witnesses upon whose testimony or information the BHA relies, limited to the issues for which the complainant has received the opportunity for a formal hearing;

The right to a decision based solely and exclusively upon the facts presented at the hearing.

If the hearing officer determines that the issue has been previously decided in another proceeding, a decision may be rendered without proceeding with the hearing.

If the complainant or BHA fail to appear at the scheduled hearing, the hearing officer may:

Make a determination that the party has waived his/her right to a hearing

Such a determination in no way waives the complainant's right to appropriate judicial proceedings in another forum.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the BHA must sustain the burden of justifying the BHA action or failure to act against which the complaint is directed.

The hearing shall be conducted by the hearing officer as follows:

Informal: Oral and documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings;

Formal: The hearing officer shall require the BHA, complainant, counsel, and other participants and spectators to conduct themselves in an orderly manner. The failure to comply with the directions of the hearing officer to maintain order will result in the exclusion from the proceedings, or a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The BHA arranges, in advance, in writing, for a transcript or audiotape of the hearing. Any interested party may purchase a copy of such transcript.

Decisions of the Hearing Officer/Panel

The hearing officer shall give the BHA and the complainant a written decision, including the reasons for the decision, within ten (10) working days following the hearing. The BHA will place one copy in the tenant files. The written decision will be sent to the address provided at the hearing.

The decision of the hearing officer shall be binding on the BHA which shall take all actions necessary to carry out the decision, unless the complainant requests Board action within ten (10) working days prior to the next Board meeting. The BHA Commissioners' decision will be mailed to the complainant with ten (10) working days following the Board meeting, and so notifies the complainant that:

The grievance does not concern the BHA action or failure to act in accordance with or involving the complainant's lease or BHA regulations which adversely affect the complainant's rights, duties, welfare or status;

The decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the BHA.

A decision by the hearing officer or BHA Commissioners in favor of the BHA or which denies the relief requested by the complainant in whole or part shall not constitute a waiver of, nor affect in any manner whatever, the rights of the complainant to a trial or judicial review in any proceedings which may thereafter be brought in the matter.

Housing Authority Eviction Actions

If a tenant has requested a hearing in accordance with these duly adopted Grievance Procedures on a complaint involving a BHA notice of termination of tenancy, and the hearing officer upholds the BHA action, the BHA shall not commence an eviction action until it has served a notice to vacate on the tenant.

In no event shall the notice to vacate be issued prior to the decision of the hearing officer having been mailed or delivered to the complainant.

Such notice to vacate must be in writing and specify that if the tenant fails to quit the premises within the applicable statutory period, or on the termination date as stated in the notice of termination, whichever is later, appropriate action will be brought against the complainant. The complainant may be required to pay court costs and attorney fees.