

Landlord and Tenant Rights in Alternative Housing

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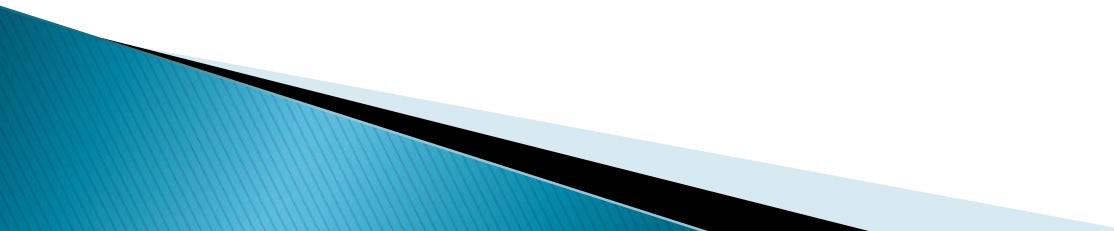
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Definitions

There is much confusion about whether residents in buildings or than traditional apartment buildings and homes owned by others are tenants.

Legally, the issue is not that confusing. The definitions in Minn. Stat. Chapter 504B answer most questions.



Definitions

Minn. Stat. § 504B.001 Definitions.

<https://www.revisor.mn.gov/statutes/cite/504B.001>

Subdivision 1.Applicability.

For the purposes of this chapter, the terms defined in this section have the meanings given them.

...

Subd. 7.Landlord.

"Landlord" means an owner of real property, a contract for deed vendee, receiver, executor, trustee, lessee, agent, or other person directly or indirectly in control of rental property.

...



Definitions

Subd. 11. Residential building.

"Residential building" means:

- (1) a building used in whole or in part as a dwelling, including single-family homes, multiple-family units such as apartments, and structures containing both dwelling units and units used for nondwelling purposes, and includes a manufactured home park; or
- (2) an unoccupied building which was previously used in whole or in part as a dwelling and which constitutes a nuisance under section 561.01.

Subd. 12. Residential tenant.

"Residential tenant" means a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, all other regular occupants of that dwelling unit, or a resident of a manufactured home park.

Definitions

Note:

Dwelling is not defined. The [Cambridge Dictionary](#) defines dwelling as:

- a house or place to live in
- a place where people live
- a building that someone lives in


Apartments, Rented Houses, and Manufactured Home Parks

Clearly, apartments, rented houses, and manufactured home parks are covered.

The law does not require that the resident be the one who pays money or provide services for the residency, but rather that there be “a lease or contract, whether oral or written, that requires the payment of money or exchange of services.”

If someone or something is paying rent or providing services to the owner for the resident, the resident is a tenant.

If the rent is not paid or the services are not provided under the oral or written contract, the resident remains a tenant but is in violation of the contract, providing the owner with the right of eviction under Chapter 504B.



Residential Caretakers

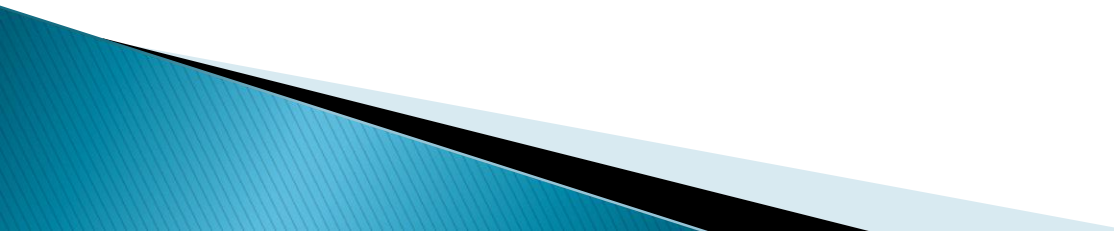
Caretakers traditionally were reviewed as occupying the premises incidentally to the caretaker's employment, and once the landlord terminated the employment, the employee who did not vacate immediately became a trespasser who could be evicted without court process. *See Lighbody v. Truelsen*, 39 Minn. 310, 40 N.W. 67 (1888); *Trustees v. Froislie*, 37 Minn. 447, 35 N.W. 216 (1887).

However, [Minn. Stat. § 504B.001, Subd. 12](#) now includes residential caretakers in the definition of tenant if they are under “a lease or contract, whether oral or written, that requires the payment of money or exchange of services.”

Interesting enough, a caretaker also is a landlord with respect to other tenants under [Minn. Stat. § 504B.001, Subd. 7](#) if the caretaker is an “agent, or other person directly or indirectly in control of rental property.”

[See Residential Eviction Defense and Tenant Claims in Minnesota at § I.D.15.](#)

But what about other types of housing, like sober houses, hotels, long term hotels, shelters, nursing homes, etc.



Sober Houses

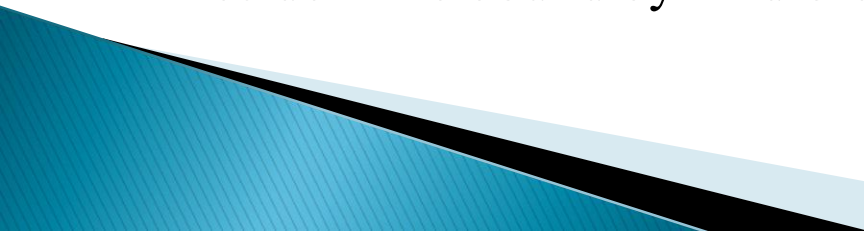
Sober houses are included in Chapter 504B.

[Minn. Stat. § 504B.1715 Covenants; Sober Homes.](#)

A sober housing program for people with substance use disorders may prohibit people in the program from the possession and use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

Sober houses are regulated under [Minn. Stat. § 254B.181](#). The regulations include having written policies regarding evictions. [Id. at Subd. 1\(2\)](#).

Going back to [Minn. Stat. § 504B.001, Subd. 12](#), if there is “a lease or contract, whether oral or written, that requires the payment of money or exchange of services,” the resident is a tenant and both the owner and resident are bound by landlord and tenant law and Chapter 504B.



Residential Hotels

Some owners of hotels that offer long-term residency assert that they are not governed by landlord and tenant law. Whether landlord and tenant law regulates the hotel depends on whether the resident has housing elsewhere.

Minn. Stat. § 327.70 Definitions.

Subdivision 1. Terms.

For the purposes of sections 327.70 to 327.76, the terms defined in this section have the meanings given them.

...

Subd. 3. Hotel.

"Hotel" means a hotel, motel, resort, boarding house, bed and breakfast, furnished apartment house or other building, which is kept, used or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy.

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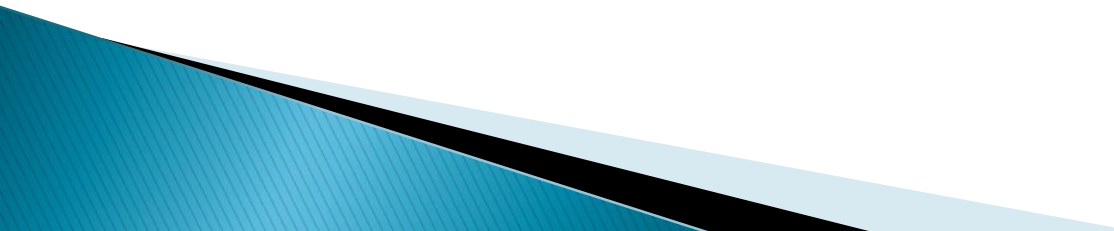
Residential Hotels

Subd. 5. Transient occupancy.

"Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the occupancy is transient.

If the unit is the sole residence of the resident, the resident is a tenant.

See Stone v. Clow, A13-0984, 2014 WL 902724 (Minn. Ct. App. March 10, 2014) (unpublished); [Residential Eviction Defense and Tenant Claims in Minnesota at § I.D.16.](#)

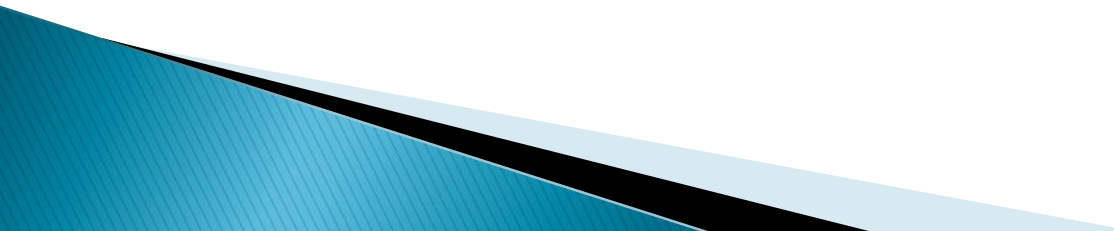


Shelters

Owners of shelters often are housed in old hotels and like hotel owners, assert that they are not governed by landlord and tenant law. Like hotels, whether landlord and tenant law regulates the shelter depends on whether the resident has housing elsewhere.

Luten v. Salvation Army, No. UD-1860324520 (Minn. Dist. Ct. 4th Dist. March 24, 1986)

Even though the respondent considered itself a hotel and not a landlord, the court noted that the nature of the tenancy is created by the conduct of the parties, as well as the written documents, and concluded that the petitioner was a tenant where he paid monthly rent for two years and reasonably understood that he was a tenant.



Nursing Homes

Residents of nursing homes are tenants.

[Minn. Stat. § 144A.13, Subd. 2](#)

144A.13 Complaints; Resident's Rights.

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Subd. 2. Resident's rights.

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no nursing home resident may be denied any right available to the resident under chapter 504B.

[See Residential Eviction Defense and Tenant Claims in Minnesota at § I.D.18.](#)



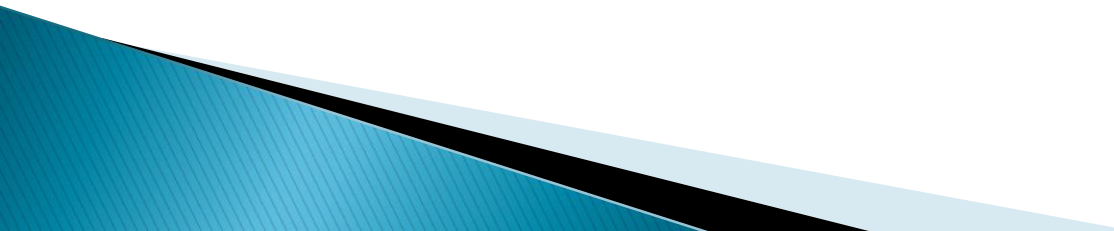
Assisted Living and Other Housing with Services for Seniors and Disabled Persons

Most residential settings with services for seniors and disabled persons are covered by landlord and tenant law.

Assisted living: [Minn. Stat. § 144G.11](#) provides that assisted living facilities “are subject to and must comply th chapter 504B.”

Board and lodging: Board and lodging establishments are licensed under [Minn. Stat. Ch. 157.](#)

While it does not refer to Chapter 504B, the questions remains the same: is there [“a lease or contract, whether oral or written, that requires the payment of money or exchange of services.”](#)



Assisted Living and Other Housing with Services for Seniors and Disabled Persons

Residences with services under Minn. Stat. Ch. 245D: Residential settings for persons with developmental disabilities in which the services are licensed under Minn. Stat. Ch. 245D. While it also does not refer to Chapter 504B, the questions remains the same: is there “a lease or contract, whether oral or written, that requires the payment of money or exchange of services.”

Housing Support: Minn. Stat. Ch. 256I regulates housing support, formerly group residential housing (GRH). While it also does not refer to Chapter 504B, the questions remains the same: is there “a lease or contract, whether oral or written, that requires the payment of money or exchange of services.”

See Residential Eviction Defense and Tenant Claims in Minnesota at §§ I.D.19-20.



Relatives and Guests of the Owner

The question remains the same: is there “a lease or contract, whether oral or written, that requires the payment of money or exchange of services.”

See Remedies for Homeowners When a Friend or Relative Refuses to Leave.



Questions

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