

5:24-1.6 Rights of tenants and mobile home owners in occupancy

(a) Tenants in occupancy prior to the recording of the master deed, deed establishing a fee simple lot or deed transferring the property to a cooperative corporation or association who have received the three year notice of eviction on the grounds of conversion, or mobile home owners who have received the 18 month notice of eviction on the grounds of permanent retirement of the mobile home park from the rental market, have the right, for 18 full months after the receipt of such notice, to request of the landlord, and to be offered by the landlord, personally or through an agent, a reasonable opportunity to examine and rent "comparable housing," as defined in N.J.A.C. 5:24-1.2.

(b) In order to be deemed to have offered a tenant or a mobile home owner a reasonable opportunity to examine and rent comparable housing, a landlord, or a person clearly authorized by a letter to the tenant or mobile home owner to be the landlord's agent, must offer a comparable rental unit or mobile home park site fulfilling the definition of "comparable housing" set forth in N.J.A.C. 5:24-1.2. An offer of comparable housing must include the following elements:

1. The offer must be made with reasonable notice in order to give the tenant or mobile home owner a fair opportunity to examine and rent the unit or mobile home park site. Reasonable notice must be given to the tenant or mobile home owner by personal service or certified mail no less than 72 hours in advance, exclusive of legal holidays, of the opportunity to examine comparable housing;
2. If the landlord of the proposed comparable unit or mobile home park site should reject the application of any tenant or mobile home owner for such comparable housing, the offer shall not be construed as an offer of comparable housing as required in these rules; and
3. In no case shall a comparable rental unit or mobile home park site be deemed to have been offered if it was not available to be rented to the tenant or mobile home owner.

Amended by R.1985 d.529, effective October 21, 1985.
See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a).

Substantially amended.

Amended by R.1990 d.507, effective October 15, 1990.
See: 22 N.J.R. 2208(a), 22 N.J.R. 3218(a).

Comparable housing moved to 1.1; provision for mobile home owners added.

Case Notes

Notice provided to tenant upon conversion of apartment building to condominium ownership should fully apprise tenant of right to purchase, and of rights as tenant if he chooses not to purchase. *Riotta v. Van Houten*, 235 N.J.Super. 162, 561 A.2d 691 (L.1988), affirmed 235 N.J.Super. 177, 561 A.2d 1168.

Landlord in action for possession of unit following conversion to condominium form of ownership not required to provide comparable housing after notice of conversion when tenant did not request it; landlord not estopped from enforcing notice of conversion; landlord waived right to summary eviction pursuant to conversion statute by collecting rent for two years after expiration of three-year period following notice of conversion. *Fairken Assoc. v. Hutchin*, 223 N.J.Super. 274, 538 A.2d 465 (Law Div.1987).

5:24-1.7 Evictions

(a) In order to evict for conversion from the rental market to a condominium, cooperative or fee simple ownership of two or more dwelling units or park sites at the end of the three year notice period, or in order to evict for permanent retirement of a mobile home park from the rental market and the end of the 18 month notice period, the landlord must prove in court that the tenant or mobile home owner was offered comparable housing as requested and as defined in N.J.A.C. 5:24-1.2 and reasonable opportunity to examine and rent such housing, as described in N.J.A.C. 5:24-1.6(b).

(b) The court has authority under P.L.1975, c. 311, as amended, to authorize one-year stays of eviction with reasonable rent increases until the court is satisfied that the tenant or mobile home owner has been offered comparable housing and a reasonable opportunity to examine and rent such housing.

(c) If, after at least one one-year stay has been authorized, the landlord provides the tenant or mobile home owner with a "hardship relocation compensation," which shall consist of a waiver of payment of five months' rent, and has demonstrated this to the court, then the court cannot authorize any further stays. A warrant for possession could then issue at the end of the one-year stay.

(d) If the landlord does not provide the relocation compensation of five months' rent and fails, within one year of a prior stay, to allege to the court that the tenant was offered a reasonable opportunity to examine and rent comparable housing, the court shall automatically renew the one-year stay.

(e) The court can grant up to five one-year stays if evidence is not provided to the court of a reasonable opportunity to examine and rent comparable housing or of the payment of a hardship relocation compensation of waiver of payment of five months' rent.

Amended by R.1985 d.529, effective October 21, 1985.
See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a).

Reference changed from "1.5" to "1.6".

Amended by R.1990 d.507, effective October 15, 1990.
See: 22 N.J.R. 2208(a), 22 N.J.R. 3218(a).

Provisions added for conversion from rental market to condo or permanent retirement of mobile home.

Case Notes

"Hardship relocation compensation" is not necessarily "automatic," in that landlord had alternative to offer tenant hardship relocation compensation of waiver of payment of five months' rent. *Daskel Investors, Inc. v. Rosenbloom*, 244 N.J.Super. 393, 582 A.2d 854 (L.1990).

Notice provided to tenant upon conversion of apartment to condominium ownership should fully apprise tenant of rights. *Riotta v. Van Houten*, 235 N.J.Super. 162, 561 A.2d 691 (L.1988), affirmed 235 N.J.Super. 177, 561 A.2d 1168.

Additional one-year eviction stays cannot be granted if landlord waives five months rent; unclean hands doctrine not invoked; comparable housing search; notice of hardship relocation compensation; regulatory purpose to give landlord alternative to providing comparable housing. *Mountain Management Corp. v. Hinnant*, 201 N.J.Super. 45, 492 A.2d 693 (App.Div.1985).

5:24-1.8 Moving expense compensation

Any tenant whose tenancy began before the conversion, and is not evicted on grounds other than that of a conversion, and any mobile home owner who is not being evicted on grounds other than permanent retirement of the mobile home park from the rental market, shall receive from the landlord a moving expense compensation of a waiver of payment of one month's rent. No warrant of possession can be given until payment of one month's waiver has been proved. Even if tenants or mobile home owners leave without eviction proceedings, they are entitled to the waiver of payment of one month's rent. Nothing in this section in any way waives the rights of other parties under the security deposit law.

Amended by R.1990 d.507, effective October 15, 1990.
See: 22 N.J.R. 2208(a), 22 N.J.R. 3218(a).

Mobile home owners also eligible for moving expense compensation.

5:24-1.9 Required statement

(a) Any tenants who begin their initial tenancy after the master deed or deed establishing fee simple lots or deed to a cooperative corporation or association is filed by the owner must be provided at the time of applying and at the establishment of a rental agreement with a separate statement conforming exactly to the words in capital letters which follow. The statement must be included as the first clause of any written lease. This is the statement:

STATEMENT

THIS BUILDING (PARK) HAS BEEN CONVERTED TO A CONDOMINIUM OR COOPERATIVE OR TO FEE SIMPLE OWNERSHIP OF THE DWELLING UNITS OR PARK SITES. YOUR TENANCY CAN BE TERMINATED UPON 60 DAYS NOTICE IF YOUR APARTMENT (OR PARK SITE) IS SOLD TO A BUYER WHO SEEKS TO PERSONALLY OCCUPY IT. IF YOU MOVE OUT AS A RESULT OF RECEIVING SUCH A NOTICE, AND THE LANDLORD ARBITRARILY FAILS TO COMPLETE THE SALE, THE LANDLORD SHALL BE LIABLE TO YOU FOR TREBLE DAMAGES AND COURT COSTS.

(b) If a tenant whose tenancy began after the conversion was initiated and was not given proper notice as provided in (a) above, the tenant will have the right to a three year notice as provided for in the previous portion of these regulations.

(c) If an owner has given the proper statement as part of the lease as described in (a) above, the owner will still be required to provide a 60-day notice prior to instituting court action for eviction which specified the cause in detail and is served personally as required for any eviction. The notice must say that the apartment has been sold to a buyer who seeks to personally occupy it.

Amended by R.1985 d.529, effective October 21, 1985.

See: 17 N.J.R. 1706(a), 17 N.J.R. 2536(a).

Substantially amended.

Case Notes

Landlord who failed to give tenant notice of possible sale of unit as condominium could not obtain judgment for possession on 60-day notice only; without statutorily required notice, tenant's situation was akin to that of preconversion tenant who must be given three years notice before judgment for possession may be obtained. *Vander Sterre Bros. Const. v. Keating*, 284 N.J.Super. 433, 665 A.2d 779 (A.D.1995).

5:24-1.10 Landlord's liability

(a) The landlord, whether the owner of the building or of the unit, can be liable to a former tenant in a civil action for triple damages plus attorney's fees and court costs for violating the requirements of N.J.A.C. 5:24-1.9.

(b) This penalty of triple damages plus attorney's fees and court costs is also applicable where a tenant vacates the premises after being given a notice alleging that the landlord seeks to personally occupy the premises under paragraph L of N.J.S.A. 2A:18-61.1, and the landlord thereafter arbitrarily fails to execute the contract for sale or take personal occupancy, but instead permits personal occupancy by another tenant.

(c) This penalty of triple damages plus attorney's fees and court costs is also applicable where a tenant or mobile home owner vacates the premises after being given a notice alleging that the landlord seeks to permanently board up or demolish the premises or retire the premises from rental use under subparagraph g(1) or paragraph h of N.J.S.A. 2A:18-61.1 and the landlord thereafter permits personal occupancy of the premises by another tenant or mobile home owner within five years of such vacancy.

(d) A tenant must sue in a civil court action to recover any such damages.

Amended by R.1990 d.507, effective October 15, 1990.

See: 22 N.J.R. 2208(a), 22 N.J.R. 3218(a).

Term "owner" changed to "landlord;" (c) added.

Amended by R.1995 d.366, effective July 3, 1995.

See: 27 N.J.R. 1718(a), 27 N.J.R. 2578(a).

Corrected a citation.

5:24-1.11 Copies of this subchapter required to be furnished to certain tenants

(a) Copies of this subchapter shall be provided to all tenants of buildings, and all mobile home owners in mobile home parks, either about to be, or being, converted to a condominium or cooperative or fee simple ownership of two or more units or park sites as part of the 60-day notice of intent to convert and the full plan of conversion. The mobile home owner or tenant's receipt of a copy of these rules shall be interpreted as being an integral and procedurally necessary part of the "full plan of conversion" described in N.J.A.C. 5:24-1.5.