

**GRIEVANCE PROCEDURE
MONTGOMERY HOUSING AUTHORITY**

I RIGHT TO A HEARING

Upon the filing of a written request as provided in these procedures, a Tenant shall be entitled to a hearing before a hearing officer.

II DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions are applicable:

- (A) Grievance shall mean any dispute which a Tenant may have with respect to Landlord action or failure to act in accordance with the individual Tenant's lease or Landlord regulations which adversely affect the individual Tenant's rights, duties, welfare or status. Grievance does not include any dispute a Tenant may have with Landlord concerning a termination of tenancy or eviction that involves any activity that may threaten the health, safety, or right to peaceful enjoyment of the Landlord's public housing premises by other Tenants or employees of the Landlord, or any criminal activity or drug-related criminal activity on or off such premises.
- (B) Complainant shall mean any Tenant whose grievance is presented to the Landlord or at the project management office in accordance with Section III and Section IV.
- (C) Elements of due process shall mean an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
 - (1) Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction;
 - (2) Right of the Tenant to be represented by counsel;
 - (3) Opportunity for the Tenant to refute the evidence presented by the Landlord including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have;
 - (4) A decision on the merits.
- (D) Hearing officer shall mean a person selected in accordance with Section IV of these procedures to hear grievances and render a decision with respect thereto.
- (E) *Tenant* shall mean the adult person (or persons) (other than a live-in aide):
 - (1) Who resides in the premises, and who executed the lease with the Landlord as lessee of the premises, or if no such person now resides in the premises,
 - (2) Who resides in the premises, and who is the remaining head of household of the Tenant family residing in the premises.
- (F) *Resident organization* includes a resident management corporation.
- (G) **Promptly** (as used in Section III, and IV.(D)) shall mean within five business days from the date of mailing of the adverse action or grievable complaint.

III PROCEDURES PRIOR TO A HEARING

Informal settlement of grievance. Any grievance shall be promptly and personally presented, either orally or in writing, to the Landlord office or to the office of the project in which the Tenant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the Tenant and one retained in the Landlord's Tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing under these procedures may be obtained if the Tenant is not satisfied. **The purpose of this informal settlement of grievance is to allow the Tenant and management to informally discuss an issue without the need for third parties, including witnesses or representatives, to be involved. At any time that a third party, including a witness or representative becomes or should become involved in the process, the informal settlement conference shall become a hearing and the procedures found in Section IV hereof shall apply. The housing authority shall notify the Tenant of the date and time that the hearing will take place.**

IV PROCEDURES TO OBTAIN A HEARING

- (A) *Request for hearing.* In the event that the Tenant is not satisfied with the informal settlement of grievance provided for in Section III, the Tenant shall submit a written request for a hearing to the Landlord or the project office within five (5) business days from date of mailing of the summary of discussion pursuant to Section III. The written request shall specify:
 - (1) The reasons for the grievance; and
 - (2) The action or relief sought.
- (B) *Selection of Hearing Officer.* A grievance hearing shall be conducted by an impartial person appointed by the Landlord other than a person who made or approved the Landlord action under review or a subordinate of such person.

The Landlord shall annually submit a list of prospective hearing officers. This list shall be provided to any existing resident organization for such organization's comments or recommendations. Any comments or recommendations by the resident organizations submitted in a reasonable time shall be considered by the Landlord.

From this list, a hearing officer shall be selected.
- (C) *Failure to request a hearing.* If the Tenant does not request a hearing in accordance with this Section, then the Landlord's disposition of the grievance under Section III shall become final: *Provided*, That failure to request a hearing shall not constitute a waiver by the Tenant of the right thereafter to contest the Landlord's action in disposing of the complaint in an appropriate judicial proceeding.
- (D) *Hearing prerequisite.* All grievances shall be promptly presented in person, either orally or in writing pursuant to the informal procedure prescribed in Section III as a condition precedent to a hearing under this section: *Provided*, That if the Tenant shall show good cause why there was failure to proceed in accordance with Section

in to the hearing officer, the provisions of this Subsection may be waived by the hearing officer.

(E) Escrow deposit. Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Landlord claims is due, the Tenant shall pay to the Landlord an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The Tenant shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by the Landlord until the complaint is resolved by decision of the hearing officer. Amounts deposited into the escrow shall not be considered as acceptance of money for rent during the period in which the grievance is pending. These requirements may be waived by the Landlord in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure: Provided, That failure to make payment shall not constitute a waiver of any right the Tenant may have to contest the Landlord's disposition of his grievance in any appropriate judicial proceeding. Provided, however, that if a public housing family requests a hearing under this policy to review the HA's determination denying or limiting the family's claim to a financial hardship exemption the family is not required to pay any escrow deposit in order to obtain a grievance hearing on such issues.

(F) *Scheduling of hearings.* Upon the Tenant's compliance with this Section, or upon the housing authority notifying the tenant or his/her representative that a hearing will be held, a hearing shall be promptly scheduled by the hearing officer for a time and place reasonable convenient to both the Tenant and the Landlord. A written notification specifying the date, time, place and the procedures governing the hearing shall be delivered to the Tenant and the appropriate Landlord official.

V PROCEDURES GOVERNING THE HEARING

- (A) The Tenant shall be afforded a fair hearing which shall include:
- (1) The opportunity to examine before the grievance hearing any Landlord documents, including records and regulations, that are directly relevant to the hearing. The Tenant shall be provided a copy of any such document at the Tenant's expense. If the Landlord does not make the document available for examination upon request by the Tenant, the Landlord may not rely on such document at the grievance hearing.
 - (2) The right to be represented by counsel or other person chosen as the Tenant's representative, and to have such person make statements on the Tenant's behalf;
 - (3) The right to a private hearing unless the Tenant requests a public hearing;
 - (4) The right to present evidence and arguments in support of the Tenant's complaint, to controvert evidence relied on by the Landlord or project management, and to confront and cross-examine all witnesses upon whose testimony or information the Landlord or project management relies; and
 - (5) A decision based solely and exclusively upon the facts presented at the hearing.

(B) *Accommodation of persons with disabilities.*

- (1) The Landlord shall provide reasonable accommodation for persons with disabilities to participate in the hearing.

Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.
- (2) If the Tenant is visually impaired, any notice to the Tenant which is required by these procedures must be in an accessible format.

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

VI DECISION OF THE HEARING OFFICER

- (A) The hearing officer shall prepare a written decision, together with the reasons therefore, within a reasonable time (not to exceed calendar days) after the hearing. A copy of the decision shall be sent to the Tenant and the Landlord. The Landlord shall retain a copy of the decision in the Tenant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Landlord and made available for inspection by a prospective complainant, his representative, or the hearing officer.
- (B) The decision of the hearing officer shall be binding on the Landlord which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Landlord's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:
 - (1) The grievance does not concern Landlord action or failure to act in accordance with or involving the Tenant's lease or Landlord regulations, which adversely affect the Tenant's rights, duties, welfare or status;
 - (2) The decision of the hearing officer is contrary to applicable Federal, State or local law, Landlord regulations or requirements of the Annual Contributions Contract between Landlord and the U.S. Department of Housing and Urban Development.
- (C) A decision by the hearing officer or Board of Commissioners in favor of the Landlord or which denies the relief requested by the Tenant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the Tenant may have to a trial *de novo* or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

I have received a copy of this grievance procedure and have had an opportunity to ask questions about the procedure.

Tenant Date

Tenant Date