



RENTING A PROPERTY THE LAW AND FAQ

Law: Ley 4/2013 de 4 de junio Decreto Real 2013-5941

This can be downloaded via the link below.

https://www.boe.es/diario_boe/txt.php?id=BOE-A-2013-5941

This modified law is only valid for long term rental agreements and explicitly excludes holiday rentals, for these the relevant articles of the old law still apply and/or any more recent special Tourism Law for your region.

Note the difference between the old law and the latter.

Length of time the tenant now has the right to a renewal of the contract up to total length of three years (was previously five years), the voluntary renewal period is now annually instead of after three years.

The possibility of the landlord to claim back the property for his personal use in determined circumstances after the one year rental period has concluded. This without the necessity of including additional clauses in the contract.

There is now the option for the tenant to cancel the agreement after a six months period has passed. The tenant would need to give thirty days' notice. Parties can agree upon compensation to be paid by tenant to the landlord. This should be included in a clause in the contract and should specify the amount.

Q Is there a legal initial minimum duration for a rental contract?

A No, there is not. Parties can agree to any initial minimum duration they want. However, if the contract is drawn up for less than three years, on the expiration date it will be obligatory to renew the contract a year at a time, until the legal minimum of three years in total has been reached or, until the tenant notifies the landlord in writing, at least thirty days in advance stating that he does not want to renew.

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If there is no initial minimum duration mentioned in the contract, it is understood that it is for one year, with right to renewal of up to total of three years. This 'long term protection' for the tenant is only valid for rentals for permanent occupation, as 'vivienda' is the term the law uses. It is therefore important that the contract a tenant signs with a landlord doesn't explicitly mention that it is NOT for permanent occupation as this would deprive tenant of this protection. If the contract is 'silent' on permanent/non-permanent character, the tenant can support his claim to the legal protection such as with the long term permanent occupation, by signing utilities bills over to his name and registering on the padrón.

Above mentioned obligatory renewal is not applicable if the landlord needs the property as the main home for himself or first degree family members (children, parents or siblings) or his ex-partner in case of divorce. He cannot claim the property as such before the first year of the contract has passed and only after giving the tenant at least two months' notice. If after a period of three months the landlord, hasn't taken occupation of the property, the tenant has the right to move back in under the same conditions as original contract, again for 3 years minimum. The tenant can has the right to claim compensation for the moving costs etc., is mentioned in the law, but not specified.

Q Can I prevent an eviction order in the case that the landlord sells the property while my rental agreement is still valid?

A Yes, you can. To this end you need to contact a notary or a gestor to register your rental agreement with the Registro de Propiedad. When the property changes owner during the agreement, the new owner is obliged to honour the contract for its legal duration. If the agreement is not registered, you can be asked to evacuate the property with 3 months' notice in the case that the property is sold.

NOTE: the landlord can register the rental agreement as well; his interest in doing this would be that in case the tenant does not pay the rent on time, he can evict him without having to go to court first. The same applies for the tenant who registers the agreement, so that's a double edged sword, so to speak.

Ref: 00/0079

Date: 17/03/14

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Q I only have a verbal agreement with the landlord, where do I stand, legally?

A Legally, a verbal agreement is as binding as a written one and the law treats both equally. However, it does have significant disadvantages as for example tenant cannot ensure himself of protection as described above, as obviously a verbal agreement cannot be registered.

Q Do I need to confirm renewal of contract?

A No. For the first three years of the contract, renewals with one year periods at a time are obligatory, after that, if neither landlord nor tenant use the option to notify the other party 30 days before expiration date, the contract will automatically be prolonged by another year.

Q Can I cancel the rental agreement at any given time?

A Once 6 months of the contract have passed; you can end the rental agreement with notice of at least 30 days. Parties can agree to indemnization to be paid by renter to landlord for every remaining year or part thereof, of the originally contracted renting period. Clause to this end must be included in contract.

Q What do I do if the property is being repossessed by the bank?

A As soon as you get wind of this, and rest assured, this doesn't happen from one day to the other, you have to write a letter to the courts, including a copy of your rental agreement, so that they are aware this is in place and they can oblige the bank to honour it.

Send this by Registered mail.

Q What if I spend money on reforming the property?

A Parties can agree in the rental agreement that if renter pays for certain specific reforms, he won't be obliged to pay the rent on the property for a certain period of time. Tenant cannot demand any additional compensation from the landlord.

Ref: 00/0079

Date: 17/03/14

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Q Can the landlord increase the rent each year?

A For contracts signed after 30.3.2015 only when it is stated in the contract that a rent increase will apply. For contracts from before this date even if not, but for both cases the below is valid. If no specific increase is agreed upon in the contract, the National Index for Consumer Goods, adjusted for loss of competitiveness, can be applied to the rent, once a year, on the renewal date. Link to webpage with this adjustment percentage. If the value is below zero, the rent should remain the same.

<http://www.ine.es/ss/Satellite?L=o&c=Page&cid=1259947704944&p=1254735893337&pagename=ProductosYServicios%2FPYSLayout>

Landlord must notify the tenant of the increase on the previous month of intended rent increase. If the 3 years of tenant's protection have passed however, the landlord can increase the rent without limit. If the tenant doesn't agree, the landlord can end the agreement, having to give notice at least 30 days before the renewal date.

Q What to do with regards to (urgent) repairs, who pays what?

A The landlord should repair things which are of vital necessity and are broken etc. due to normal usage. Usually, he will arrange for this, but he can ask the tenant to take care of this as well, especially in case of urgent repairs. Landlord remains responsible for payment of the repairs.

NOTE 1: If tenant reports the necessity of a repair to landlord, and he doesn't react satisfactorily, the repairs are urgent, affecting health, or causing serious inconvenience, tenant can go ahead and carry out the repairs and ask to be reimbursed. If landlord does not make the payment, the tenant should give notice of deduction of the repair costs from the rent. Before taking this course of action and to avoid being accused of not paying rent, the tenant should obtain all relevant receipts of the costs for the repairs and we would advise to obtain at least two quotes for the repairs, before having them carried out.

NOTE 2. The procedure as mentioned under **NOTE 1** above does not cover repairs for which the tenant is to blame, or for repairs due to minor wear and tear.

Q Who should take care of maintenance?

Ref: 00/0079

Date: 17/03/14

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A Usually the landlord, unless the contract states otherwise.

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