

## Chapter 18

### CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS –FOR HAP CONTRACT EFFECTIVE BEFORE OCTOBER 2, 1995

#### INTRODUCTION

This Chapter describes the Housing Commission's policies, procedures and standards for servicing HAP Contracts which were effective before October 2, 1995. Certificate and Voucher contracts in this category have provisions for the Housing Commission's liability to owners when families move out. Vouchers and Certificates have a provision for damages, and Certificates, in addition, have a provision for vacancy loss.

#### 18-I OWNER CLAIMS

Under HAP Contracts effective prior to October 2, 1995, owners may make "special claims" for damages, unpaid rent, and vacancy loss (vacancy loss cannot be claimed in the Voucher Program) after the tenant has vacated the unit.

Owner claims for payment for unpaid rent, damages, or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. The Housing Commission establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the Housing Commission will ascertain whether or not the family gave proper notice of its intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

The Housing Commission will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse the Housing Commission for claims paid to the owner.

#### 18-II UNPAID RENT

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP Contract.

Separate agreements are not considered a tenant obligation under the lease and the Housing Commission will not reimburse the owner for any claims under these agreements.

#### 18-III DAMAGES

The owner must be present during the move-out inspection and only damages claimed by the owner are reimbursable.

All claims for damages must be supported by the actual bills or estimates for materials and labor.

Invoices or bills from individuals providing labor must include their name, address and telephone number.

The landlord may not bill him/herself for labor since that is not considered by the Housing Commission to be an "actual cost." However, the actual cost of the owner's employees' labor, such as the resident manager, to make repairs may be included.

#### **18-IV VACANCY LOSS IN THE CERTIFICATE PROGRAM**

Vacancy Loss is applicable to the Certificate Program only. Vacancy loss is paid if the move was in violation of the notice requirements in the lease, or the result of an eviction.

In order to claim vacancy loss, the unit must be available for lease and the landlord must:

- Notify the Housing Commission within 4 hours excluding weekends and holidays upon learning of the vacancy, or prospective vacancy, and

- Pursue all possible activities to fill the vacancy, including, but not limited to:

  - Contacting applicants on the owner's waiting list, if any;

    - Seeking eligible applicants by listing the unit with the Housing Commission,

    - Advertising the availability of the unit, and

    - Not rejecting potentially eligible applicants except for good cause.

In the event that a unit becomes vacant because of the death of the tenant, the Housing Commission will permit the owner to keep the HAP for the month in which the tenant died.

If the tenant moves *after* the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

To ensure valid claim processing, the Housing Commission will conduct a thorough move-in inspection noting "conditions" as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and tenant.

The owner must be present during the move-out inspection and only damages claimed by the owner are reimbursable.

All claims for damages must be supported by the actual bills for materials and labor and a copy of the canceled checks or other receipts documenting payment. Estimates are acceptable.

Bills from individuals providing labor must include their name, Social Security Number, address and phone number. The landlord may not bill himself/herself for labor since that is not considered by the Housing Commission to be an "actual cost." However, the actual cost of the owner's employees' labor, such as the resident manager, to make repairs may be included.

Reasonableness of costs will be based on the Means/Home Tech Cost Estimating Guide. Reimbursement for replacement of items such as carpets, drapes, or appliances, are based on depreciation schedules in general use by this Housing Commissions.

The Housing Commission may require verification of purchase date, quality, and price of replaced items in order to calculate depreciation.

Damages which were caused during tenancy, were repaired and billed, but remain unpaid at move-out, can be considered "other items due under the lease" and included in the claim.

Eligible items to be included on the damage claim must have been a tenant responsibility under the lease or State law.

Claims for normal wear and tear, previously existing conditions, routine turnover preparation, cleaning and cyclical interior painting are not paid.

The Housing Commission will inspect the unit to verify that repairs were made.

## **18-V MOVE-OUT AND CLOSE-OUT INSPECTIONS**

Move-out inspections are performed after the tenant has vacated the unit. These inspections are performed to assess the condition of the unit, not to evaluate the HQS. Vacate inspections will be conducted by a Section 8 Inspector or Coordinator.

There will be no move-out inspections of units with contracts effective on or after October 2, 1995.

The owner must notify the Housing Commission of the move-out and request an inspection within 48 hours of learning of the move-out in order to submit a claim for damages.

If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

The owner and tenant will be notified of the date and time of the inspection. If the owner is not present, the move-out inspection will not be rescheduled.

The Housing Commission will conduct a move-out inspection on tenant's request if the owner does not also request an inspection.

A damage claim will not be approved *unless* the move-out inspection is requested and completed prior to any work being done.

In the event that the Housing Commission is unable to inspect within 5 days, the owner will be permitted to use date-stamped photographs to substantiate the claim.

## **18-VI PROCESSING CLAIMS**

Any amount owed by the tenant to the owner for unpaid rent or damages will first be deducted from the maximum security deposit which the owner could have collected under the program rules. If the maximum allowable security deposit is insufficient to reimburse the owner for the unpaid tenant rent or other amounts which the family owes under the lease, the owner may request reimbursement from the Housing Commission up to the limits for each program.

If the owner claims vacancy loss, the security deposit that s/he collected or could have collected will be deducted from the vacancy loss claim.

The Housing Commission reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending (notice sent to last known address). The notification will state the preliminarily determined amount, the type of claim, and describe the procedure for contesting the claim.

The Housing Commission will offer the family 10 business days to contest the claim. If the family disputes the claim, the Housing Commission will schedule an informal meeting with the owner and tenant in order to resolve the differences.

If the owner fails to attend the meeting, the Housing Commission will consider this prima facie evidence of validity of the tenant's position.

If the tenant fails to attend the meeting, the Housing Commission will proceed with its original determination.

After a determination has been made, the Housing Commission will notify the family in writing of the decision. If it has been determined that the family owes money, the Housing Commission will pursue collection to repay either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse the Housing Commission as required.

### **Other Requirements for Claims Processing**

The Housing Commission will require proof that the owner has complied with State and local laws applicable to security deposits before making payment on any claim.

All notices to tenants during the processing of a claim must include proof of mailing or of personal delivery.

No claims will be paid for a unit which is vacant as the result of the landlord voluntarily moving a family to another unit owned by the same landlord.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted, and they must be submitted within 90 days of the date the owner learned of the move-out.