

Chapter 17

CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS (For HAP Contracts Effective Before October 2, 1995)

INTRODUCTION

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

A. 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 PHA establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, the PHA 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 PHA will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse the PHA for claims paid to the owner.

B. 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 PHA will not reimburse the owner for any claims under these agreements.

C. 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.

D. VACANCY LOSS IN THE PRE-MERGER CERTIFICATE PROGRAM

Vacancy Loss is applicable to the pre-merger 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 PHA 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 PHA,

Advertising the availability of the unit, and

Not rejecting potentially eligible applicants except for good cause.

To ensure valid claim processing, the PHA will conduct a thorough move-in inspection noting "conditions" as well as HQS deficiencies 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.

Reimbursement for replacement of items such as carpets or appliances are based on depreciation schedules in general use by this PHA.

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

Damages that 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 unpaid utility bills cannot be approved as part of a claim.

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

E. 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.

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

The PHA's initial inspection of the unit will include a "conditions" report that will be compared to the conditions found during the move-out inspection.

The owner must notify the PHA of the move-out and request an inspection.

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.

The PHA will not 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.

F. 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 that 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 PHA 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 PHA 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 PHA will offer the family 10 calendar days to contest the claim. If the family disputes the claim, the PHA will schedule an informal hearing with the owner and tenant in order to resolve the differences.

If the owner fails to attend the informal hearing, the PHA will consider this prima facie evidence of validity of the tenant's position.

If the tenant fails to attend the informal hearing, the PHA will proceed with its original determination.

The informal hearings will not be rescheduled if neither party attends.

At the informal hearing, the amount and type of claim will be discussed with the family. If the family agrees with the amount and type of claim, the family will be offered a Repayment Agreement.

If the family demonstrates that the claim, or parts of it, is invalid, the PHA will adjust the amount.

After a determination has been made, the PHA will notify the family in writing of the decision. If it has been determined that the family owes money, the PHA 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 PHA as required.

Other Requirements for Claims Processing

The PHA 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.

Costs of filing eviction to remove the tenant or any other legal fees may not be reimbursed.

All unpaid rent, damage, and vacancy loss claim forms must be fully complete when they are submitted.

Reserved