

## Chapter 16

### CONTRACT TERMINATIONS

[24 CFR 982.311, 982.314]

The Housing Assistance Payments (HAP) contract is the contract between the owner and SHA which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by SHA and the owner, and the policies and procedures for such terminations.

#### **A. Contract Termination** [24 CFR 982.311]

The term of the HAP Contract is the same as the term of the lease. The contract between the owner and SHA may be terminated by SHA, or by the owner or tenant terminating the lease. No subsidy payments on behalf of the family will be made by SHA to the owner for any period of time after the month in which the contract is terminated. The owner must reimburse SHA for any subsidies paid by SHA for any period after the contract termination date.

If the family continues to occupy the unit after the contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from SHA for vacancy loss under the provisions of certificate HAP Contracts effective before October 2, 1995.

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit. The contract for the new unit may begin during the month in which the family moved from the old unit.

#### **B. Termination by the Family: Moves** [24 CFR 982.314(c) (2)]

Family termination of the lease must be in accordance with the terms of the lease.

#### **Violence Against Women Act**

The PHA may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

The PHA may honor court orders regarding the rights of access or control of the property, including EPO's, DVO's, and other orders issued to protect the victim and disused to address the distribution or possession of property among household members where the family "breaks up."

The PHA may require certifications by the victim of victim status on such forms as the PHA and/or HUD shall prescribe or approve.

#### **C. Termination of Tenancy by the Owner: Evictions** [24 CFR 982.310]

## Notice

If the owner wishes to terminate the lease, the owner must provide proper written notice as stated in the lease, at or before the commencement of the eviction action, specifying the grounds for termination of tenancy. The owner eviction notice includes any notice to vacate, or a complaint, or other initial pleading used under state or local law to commence an eviction action.

SHA requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section, as documentation for SHA's decision regarding termination of assistance.

## Reasons for Eviction

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations, as follows:

1. Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;
2. Violations of federal, state or local law that impose obligations on the tenant in connection with the occupancy or use of the premises; or criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises; or
3. Other good cause.

During the initial term of the lease, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do [24 CRF 982.310].

## Evidence of Criminal Activity

The owner may terminate tenancy and evict a family by judicial action for criminal activity by a "covered person" (i.e., the tenant, any member of the household, a guest or another person under the tenant's control) if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction, and without satisfying the standard of proof used for a criminal conviction.

## Exclusion of Culpable Household Member

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit.

### Consideration of Rehabilitation

When determining whether to terminate the tenancy for illegal drug use or alcohol abuse by a family member, the owner may consider whether the member:

1. Is no longer participating in the household;
2. Has successfully completed a supervised drug or alcohol rehabilitation program; or
3. Has otherwise been successfully rehabilitated.

The owner may require the tenant to submit evidence of any of the above.

Actions of termination by the owner must be consistent with Fair Housing rules as stated in 24 CFR 5.105.

### Housing Assistance Payments

Housing Assistance Payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, SHA shall continue to make Housing Assistance Payments to the owner until the owner has obtained a court judgment.

If the action is finalized in court, the owner must provide SHA with the documentation, including notice of the lockout date.

### Issuing a Voucher to a Family under Eviction

If an eviction is not due to a serious or repeated violation of the lease, and if SHA has no other grounds for termination of assistance, SHA may issue a new voucher so that the family can move with continued assistance.

### **D. Termination of the Contract by SHA** [24 CFR 982.403, 982.404(a), 982.453, 982.454, 982.455, 982.552(a) (3)]

SHA shall terminate the HAP contract with the owner:

1. When the lease terminates;
2. When SHA terminates program assistance for the family;
3. If the owner breaches the HAP Contract (see Chapter 18, Owner Disapproval and Restriction);
4. If the family is required to move from a unit when the subsidy is too big for the family size (certificate program), or the unit does not meet the HQS space standards because of an increase in family size or a change in family composition;
5. If 180 days have passed since the last Housing Assistance Payment to the owner; or
6. If funding is no longer available under the ACC.

### Notice of Termination for HQS Space Standard

When SHA terminates the HAP Contract because of a violation of HQS occupancy standards, SHA will provide the owner and family written notice of termination of the contract. The HAP contract terminates at the end of the calendar month that follows the calendar month in which SHA gives such notice to the owner.