

Florida Residential Lease Agreement Analysis

Introduction

This analysis examines a Florida residential lease agreement from the perspective of a potential tenant. The analysis covers the core terms of the agreement, identifies significant provisions that warrant special attention, evaluates these provisions within the context of Florida landlord-tenant law, and provides an overall assessment of the lease's clarity and balance.

I. Core Agreement Summary

Basic Lease Information

- **Property Address:** 2649 Tifton St S, Gulfport, Florida 33711-3644
- **Landlord:** Luther J. Rollins, Jr. and Mary O. Polk
- **Tenant:** Stephen Boerner and Melissa Bemer
- **Lease Term:** 10/31/2023 to 8/31/2024 (10 months)
- **Monthly Rent:** \$4,500.00 due on the 1st of each month
- **Late Fee:** \$200.00 for payments made 5 days after the due date

Financial Terms

- **Total Initial Payment:** \$14,000.00 due prior to occupancy, consisting of:
- First month's rent: \$4,500.00 (due 10/26/2023)
- Last month's rent: \$4,500.00 (due 10/26/2023)
- Security deposit: \$4,500.00 (due 10/26/2023)
- Pet deposit: \$500.00 (due 10/26/2023)
- **Acceptable Payment Methods:** Cash, personal check, money order, cashier's check
- **Bad Check Consequences:** If tenant makes payment with a worthless check, landlord can require future payments by money order, cashier's check, official bank check, or cash

Occupancy Terms

- **Furnishings:** Property includes "All furnishings and personal property"
- **Permitted Occupants:** Limited to the tenants named in the lease
- **Pets:** One dog is permitted (with pet deposit paid)
- **Smoking:** Not permitted in the premises

Maintenance Responsibilities

The lease specifies various maintenance responsibilities, with the landlord responsible for: - Roofs - Extermination of rats, mice, roaches, ants, and bedbugs

The tenant is responsible for: - Replacing HVAC filters monthly - Carrying renter's insurance

Many maintenance responsibilities are left unspecified in the lease form.

Utilities and Services

- Tenant is responsible for all utility services and connection charges/deposits except those specifically provided by the landlord (none specified)

Access and Keys

- Landlord provides 2 sets of keys to the dwelling
- Landlord may enter the premises:
 - For protection or preservation of the property
 - After reasonable notice for repairs
 - To inspect, make repairs, or exhibit the premises to prospective purchasers/tenants with tenant's consent, in emergencies, or when tenant unreasonably withholds consent

Termination and Renewal

- The lease can only be renewed or extended by written agreement signed by both parties
- Total term including renewals may not exceed one year
- No early termination fee/liquidated damages provision was agreed to
- Special provisions for servicemembers to terminate the lease as provided in Section 83.682, Florida Statutes

Legal Provisions

- Attorney's fees may be recovered by the prevailing party in any lawsuit to enforce the lease
- The lease is automatically subordinate to any mortgage on the property
- Tenant's interest shall not be subject to liens for improvements made by tenant
- Radon gas disclosure is included as required by law

II. Significant Provisions for Tenant Consideration

Financial Considerations

High Initial Payment Requirement

- **Total Move-In Cost:** \$14,000.00 required before occupancy
- **Impact:** This substantial upfront payment (equivalent to more than 3 months' rent) creates a significant financial barrier to entry
- **Consideration:** Tenant should ensure sufficient funds are available well before the move-in date

Security Deposit Handling

- The lease does not explicitly state which of the three legally permitted methods the landlord will use to hold the security deposit:
- Non-interest-bearing account
- Interest-bearing account (with tenant receiving at least 75% of interest or 5% simple interest)
- Surety bond
- **Consideration:** Tenant should request written clarification on how the security deposit will be held and whether interest will be paid

Incomplete Maintenance Responsibility Allocation

- The maintenance responsibility section (Section 10) has many blank fields
- Only roofs and pest extermination are explicitly assigned to the landlord
- **Impact:** Ambiguity could lead to disputes over who is responsible for repairs and maintenance
- **Consideration:** Tenant should request written clarification on all maintenance responsibilities before signing

Occupancy and Use Restrictions

Renter's Insurance Requirement

- Tenant must carry renter's insurance (specified in Section 10)
- **Consideration:** Tenant should factor this ongoing cost into their budget and confirm coverage requirements

Alterations Restriction

- Tenant may not paint or make alterations without landlord's written consent
- Exception: Tenant may hang pictures and install window treatments if they repair damage upon removal
- **Consideration:** Tenant should discuss any desired modifications before signing

Pet Restrictions

- Only one dog is permitted with payment of \$500 pet deposit
- **Consideration:** Tenant should confirm if there are any breed or size restrictions not explicitly stated

Legal Vulnerabilities

Incomplete Maintenance Terms

- The lease form has numerous blank spaces in the maintenance section
- **Impact:** This creates ambiguity about responsibility for critical systems (plumbing, electrical, HVAC)
- **Consideration:** Without clear assignment, tenant may face unexpected repair costs or maintenance disputes

No Early Termination Provision

- The lease does not include an early termination fee option
- **Impact:** If tenant needs to break the lease early, they remain liable for rent until the end of the lease term or until the unit is re-rented
- **Consideration:** Tenant should understand their limited options if circumstances require relocation before lease end

Automatic Subordination to Mortgages

- Lease is automatically subordinate to any mortgage on the property
- **Impact:** In case of foreclosure, tenant's rights may be affected

- **Consideration:** Tenant should research if there are any existing mortgage issues with the property

Attorney's Fees Provision

- Prevailing party in any lawsuit can recover attorney's fees from the non-prevailing party
- **Impact:** Increases financial risk of any legal dispute
- **Consideration:** Tenant should be cautious about entering into disputes without strong legal grounds

Administrative Concerns

Unclear Notice Requirements

- While the lease specifies that notices to landlord must be given by U.S. mail or hand delivery, it doesn't specify required notice periods for various situations
- **Consideration:** Tenant should clarify notice requirements for maintenance requests, intent to vacate, etc.

Tenant's Personal Property Clause

- Section 29 (not initialed) would have waived landlord's responsibility for tenant's personal property upon surrender, abandonment, or death
- **Consideration:** While not activated in this lease, tenant should be aware of the importance of this provision in future leases

III. Legal Context Analysis

Security Deposit Provisions

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.49 provides specific requirements for handling security deposits:
- Landlords must hold deposits in a Florida banking institution in either:
 - A separate non-interest-bearing account
 - A separate interest-bearing account (tenant receives at least 75% of interest or 5% simple interest)
 - Post a surety bond
- Landlords must provide written notice within 30 days of receiving the deposit, disclosing where it's being held

- Upon lease termination, landlords have 15-30 days to return the deposit or provide written notice of intent to claim against it

Analysis of Lease Compliance

- The lease collects a substantial security deposit (\$4,500) but fails to specify which method will be used to hold it
- The lease does not include the statutorily required written notice about security deposit handling
- **Legal Implication:** This omission potentially violates Florida Statute 83.49, which could affect the landlord's ability to make claims against the deposit

Maintenance Responsibilities

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.51 establishes landlord's maintenance obligations:
- Landlords must comply with building, housing, and health codes
- In the absence of codes, landlords must maintain structural components and plumbing
- Landlords must make reasonable provisions for extermination of pests, garbage removal, running water, hot water, and heat
- These obligations may be modified in writing for single-family homes and duplexes

Analysis of Lease Compliance

- The lease form contains numerous blank spaces in the maintenance section
- Only roofs and pest extermination are explicitly assigned to the landlord
- **Legal Implication:** While Florida law allows modification of maintenance responsibilities for single-family homes, the incomplete nature of this section creates ambiguity that could lead to disputes
- The tenant should be aware that despite blank spaces, the landlord still has statutory obligations that cannot be waived

Landlord Access Provisions

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.53 governs landlord's access to the dwelling unit:
- Landlords may enter only with tenant's consent, in case of emergency, when tenant unreasonably withholds consent, or by court order

- Landlords must provide reasonable notice (at least 12 hours) before entry for repairs or showing the property
- Landlords may enter at any time to protect or preserve the premises

Analysis of Lease Compliance

- The lease's access provisions in Section 15 generally align with statutory requirements
- However, the lease does not specify what constitutes "reasonable notice" for non-emergency entry
- **Legal Implication:** Despite this omission, Florida law would still require at least 12 hours notice before non-emergency entry

Early Termination and Lease Breaking

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.595 provides landlords with several options when tenants breach the lease:
- Treat the lease as terminated and retake possession for the landlord's account
- Hold the tenant liable for rent due under the lease, mitigated by landlord's good faith efforts to re-rent
- Stand by and do nothing, holding tenant liable for rent as it comes due
- Charge liquidated damages or an early termination fee if specified in the lease

Analysis of Lease Compliance

- The lease includes an Early Termination Fee/Liquidated Damages Addendum, but the tenant did not agree to these terms
- **Legal Implication:** Without this agreement, the tenant remains potentially liable for rent until the end of the lease term if they break the lease early, subject to the landlord's duty to mitigate damages by attempting to re-rent the unit

Servicemember Termination Rights

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.682 provides special termination rights to servicemembers:
- Servicemembers who receive permanent change of station orders or deployment orders for 90+ days may terminate the lease
- Proper notice and documentation must be provided
- Tenant remains liable only for 30 days' rent after the termination date

Analysis of Lease Compliance

- The lease correctly references these statutory protections in Section 14
- **Legal Implication:** This provision properly preserves important statutory protections for servicemembers

Attorney's Fees Provision

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.48 allows the prevailing party in an action to enforce a rental agreement to recover reasonable attorney fees
- The statute specifically states this right cannot be waived in a lease agreement

Analysis of Lease Compliance

- The lease's attorney's fees provision in Section 26 aligns with statutory requirements
- **Legal Implication:** This provision is enforceable and creates significant financial risk for either party in the event of litigation

Prohibited Practices

Florida Law Context

- **Statutory Requirements:** Florida Statute 83.67 prohibits certain landlord practices, including:
 - Shutting off utilities or services
 - Removing doors, locks, or outside windows
 - Preventing tenant access to the premises
 - Removing tenant's personal property without proper legal process

Analysis of Lease Compliance

- The lease correctly references these statutory protections in Section 19
- **Legal Implication:** This reference properly preserves important tenant protections against self-help evictions and other prohibited practices

IV. Overall Assessment

Clarity Assessment

Document Structure and Organization

- The lease follows a standard Florida Realtors form structure with numbered sections
- The document is generally well-organized with clear section headings
- The use of checkboxes and fill-in-the-blank sections makes options visually clear
- The inclusion of the full Florida Residential Landlord and Tenant Act provides valuable reference material

Areas of Strong Clarity

- Financial terms are clearly stated, including rent amount, due date, and payment methods
- The lease term is unambiguously defined with specific start and end dates
- Pet policies are explicitly addressed with clear permission for one dog
- The process for notices between parties is well-defined

Areas of Poor Clarity

- The maintenance responsibility section contains numerous blank fields, creating significant ambiguity
- The security deposit handling method is not specified, despite multiple options under Florida law
- Notice periods for landlord entry are described as "reasonable" without specific timeframes
- The lease lacks clarity on the process for maintenance requests and emergency repairs

Balance Assessment

Balanced Provisions

- The lease correctly references statutory protections for tenants regarding prohibited practices
- Servicemember termination rights are properly preserved
- The tenant's right to hang pictures and install window treatments (with repair of damage) is a reasonable accommodation

- The attorney's fees provision applies equally to both parties as the prevailing party in litigation

Landlord-Favorable Provisions

- The substantial upfront payment requirement (\$14,000) heavily favors the landlord's financial security
- The incomplete maintenance responsibility section creates potential for shifting statutory landlord obligations to the tenant
- The absence of an early termination option leaves tenants with limited flexibility
- The automatic subordination to mortgages protects the landlord's financing options without corresponding tenant protections
- The requirement for tenant to carry renter's insurance without specifying landlord's insurance obligations

Tenant-Favorable Provisions

- The lease does not activate the personal property abandonment waiver (Section 29)
- The tenant is permitted to have one dog (with deposit)
- The lease does not impose an early termination fee or liquidated damages

V. Conclusion

This Florida residential lease agreement is a standard form document that provides basic protections but contains significant gaps and ambiguities that a potential tenant should address before signing. The most concerning aspects include:

1. **Incomplete maintenance responsibilities:** The lease fails to clearly allocate many essential maintenance duties, creating potential for disputes.
2. **Security deposit handling:** The lease does not specify how the substantial security deposit will be held or whether interest will be paid, potentially violating Florida law.
3. **High financial barriers:** The \$14,000 upfront payment requirement creates a significant financial burden for tenants.
4. **Limited flexibility:** The absence of an early termination option restricts tenant mobility.

While the lease does incorporate statutory protections and follows a standard format, its balance tilts moderately in favor of the landlord, particularly regarding financial terms and maintenance responsibilities. A potential tenant would be well-advised to:

1. Request written clarification on all maintenance responsibilities
2. Inquire about security deposit handling procedures
3. Negotiate the substantial upfront payment if possible
4. Understand the implications of breaking the lease early
5. Consider the long-term financial commitment in relation to the property's value

The lease does provide a functional framework for the landlord-tenant relationship, but its gaps and ambiguities require attention and clarification before signing to ensure both parties have a clear understanding of their rights and responsibilities.