

# EVICTIION POLICY



Approved by the Delaware Tribal Council

May 7, 2012

**Delaware Tribe Housing Program**  
**Termination and Eviction Policy for the**  
**Low Rent, Mutual Help, and Home Ownership Opportunity**  
**Programs**

**I. Policy Statement**

There are times when the termination of Rental Leases and Occupancy Agreements become necessary due to circumstances that are unforeseen, voluntary actions on the part of the participants, or as a result of policy/agreement violations. Upon exhausting all informal and formal remedies the Housing Program has the responsibility to initiate the process of termination in those cases where such action is warranted. This policy addresses both involuntary and voluntary termination of leases and occupancy agreements and further defines the eviction process.

This policy provides a process that is expeditious and attempts to avoid having vacant units that may be costly to the Housing Program. Participants whose leases/agreements are involuntarily terminated will have the right to file a grievance in accordance with the Housing Program Grievance Policy.

**II. Voluntary Termination : Mutual Help and Occupancy Agreement**

- A. In some instances, Mutual Help participants may have to move due to circumstances beyond their control or leave the area for employment reasons. The participant may terminate the agreement by giving written notice thirty (30) days in advance. In all cases the participant is responsible for notifying the Housing Program in accordance with Article XII, Section 12.3, of the Mutual Help and Occupancy Agreement (MHOA), and Article IX of the Home Ownership Opportunity Program of the Delaware Tribe Housing Program. Upon receiving the notice the Housing Program and participant will proceed with the appropriate steps as found in Articles 12.4 and 12.5 (a) of the MHOA, and Article IX of the Home Ownership Opportunity Program.

**III. Involuntary Termination: Mutual Help and Occupancy Agreement**

- A. The Housing Program may terminate the Mutual Help and Occupancy Agreement if the participant fails to meet any of his/her obligations under the agreement. Reasons for termination may include, without limitation, failure to make timely payments, violation of the policy for Substance Abuse and Drug Free Housing, willful or negligent damage to the unit, misrepresentation or withholding of material information in applications or recertifications or violation of other material provisions of the Mutual Help and Occupancy Agreement.

- B. The participant may exercise their administrative options within ten (10) days and has the right to make a reply and right to request a Grievance hearing in accordance with the Housing Program Grievance Policy. The ten (10) day period provides the participant with the opportunity to request a hearing with the Delaware Housing Program Housing Administrator prior to the expiration of the thirty (30) day period as stated in the Notice of Termination. Failure to do so on the part of the participant does not alter the effective date of the Notice of Termination.
- C. The purpose of the hearing is to review all evidence and facts to determine if the notice of termination is valid and to provide an opportunity to correct any breach(s) of the Mutual Help and Occupancy agreement.
- D. If the participant is disputing the amount charged for the house payment, a payment equal to the administrative charge or last approved house payment will be deposited in escrow until the disputed amount is resolved. The participant's ledger will reflect a past due amount until the dispute is resolved.
- E. The following are participant options:
1. Respond to notice in writing;
  2. Contact Housing Program and initiate a Plan of Action;
  3. Request a Grievance hearing in accordance with the Grievance Policy with the exception of,
    - An individual who has received a notice alleging violation of the Policy for Substance Abuse and Drug Free housing, or
    - Any criminal activity that threatens the health or safety of, or right to peaceful enjoyment of other participants, neighbors or Housing Program employees, or
    - Any criminal activity, including drug-related activity, by participants, their household members, guests, or invitees affecting premises, or rights or well-being of any participant's neighbors.
- F. The participant may be represented or accompanied by anyone of his/her choice at their own cost for any of the administrative or legal proceedings.
- G. If within thirty (30) days after the date of the Notice of Termination, the participant presents to the Housing Program that he/she will cure the breach and continue to carry out their Mutual Help and Occupancy Agreement obligations, The Housing Program may postpone the date in the Notice of Termination.
- H. If the participant does not exercise any administrative remedies, obtain postponement of the date of the Notice of Termination or vacate the unit within thirty (30) days or any additional period of time necessary to accomplish administrative options, the Housing Program shall file a civil complaint with the County or State courts, requesting eviction of the participant.

#### **IV. Notice of Non-Compliance**

- A. Notice of Non-Compliance will be sent to the participant stating that they have up to ten (10) days from date of notice to cure the breach of agreement or inform the Housing Program as to why they are unable to cure the breach of agreement.
- B. During this time the participant may cure the breach of agreement or enter into a Plan of Action. The Plan of Action will state the conditions for curing the breach and the time frame for cure.
- C. The Housing Program's acceptance of a Plan of Action and attempts at curing the breach in no way waives its right to proceed with termination of participation.

#### **V. TERMINATION**

A written Notice of Termination initiates the process after a Notice of Non-Compliance. Such notice shall state the following;

- A. The reason(s) for the termination and time of termination.
- B. That the Mutual Help and Occupancy Agreement shall terminate Thirty (30) days after the date of the Notice of Termination.

#### **VI. Voluntary Termination: Low Rent Program-Participant Lease**

- A. Participants in the Low Rent Program who wish to terminate their lease with the Housing Program may do so in accordance with Section 13 of the Lease Agreement. A participant may terminate his/her Low Rent Agreement by giving the Housing Program written notice thirty (30) days in advance and the participant Lease shall terminate on the thirtieth (30<sup>th</sup>) day after the Housing Program receives such notice. Rent will be prorated if the participant vacates the unit after the first of the month.

#### **VII. Involuntary Termination: Rental Lease Agreement**

- A. The Housing Program may terminate the Rental Lease Agreement if the participant fails to meet any of his/her obligations under the Participant Lease Agreement. Reasons for termination may include, without limitation, violation of the policy for Substance Abuse and Drug Free Housing, willful or negligent damage to the unit, misrepresentation or withholding of material information on the application or re-certification or violation of other material provisions of the Rental Lease Agreement.
- B. **NOTICE OF NON-COMPLIANCE.** A Notice of Non-Compliance for any reason other than delinquency in payments will be sent to the participant stating that they have up to ten (10) days from date of notice to cure the breach of agreement or inform the Housing Program as to why they are unable to cure the breach of agreement.

1. During this period the participant may cure the breach of agreement or enter into a Plan of Action. The Plan of Action will state the conditions for curing the breach and the time frame for cure.

2. The Housing Program's acceptance of a Plan of Action and attempts at cure of the breach in no way waives its right to proceed with termination of participation.

**C. TERMINATION.** A written Notice of Termination initiates the process, after service of a Notice of Non-Compliance. Such notice shall state the following:

1. The reason(s) for and time of the termination.
2. That the Participant Lease Agreement shall terminate on the thirtieth (30<sup>th</sup>) day after the date of the Notice of Termination.
3. That the participant may respond to the notice in writing within ten (10) days of period provides the participant the opportunity to request a hearing prior to the expiration of the thirty (30) day period as stated in the Notice of termination. Failure to do so on the part of the participant does not alter the effective date of the Notice of Termination. The Housing Program Housing Administrator reserves the right to terminate immediately, the date of the notice regarding the reason(s) for termination. The ten (10) day
4. That the purpose of the hearing is to review all evidence and facts to determine if the Notice of Termination is valid and to provide an opportunity for the participant to correct any violation(s) of the Participant Lease Agreement.
5. That if, within thirty (30) day period of the Notice of Termination, the participant presents the Housing Program with evidence or assurances satisfactory to the Housing Program that he/she will correct the violation(s) and continue to carry out their Participant Lease Agreement obligations, the Housing Program may rescind the Notice of Termination.
6. If the participant does not exercise any administrative remedies, obtain postponement of the date of the Notice of Termination or vacate the unit within thirty (30) days or any additional period of time necessary to accomplish administrative options, the Housing Program shall file a civil complaint with the County or State courts, requesting eviction of the participant.

#### **VIII. Abandonment of Mutual Help Unit**

- A. In the event a participant abandons their unit for a period that exceeds thirty (30) consecutive days and the monthly house payment is owed, the participant will have breached their Mutual Help and Occupancy Agreement. The Housing

Program will proceed in accordance with Paragraph 2.B.b of this policy and with article XII - Termination of MHOA. Upon completing all requirements of Article XII, the Housing Program will proceed with identifying a subsequent participant or make a determination as to the future use of the unit.

- B. The Housing Program will notify the participant that a claim for remaining personal property must be made within thirty (30) days or it will be disposed of by the Housing Program.

#### **IX. Abandonment of Low rent Unit**

- A. In the event a participant abandons their unit for a period that exceeds thirty (30) consecutive days, the rent is owed, the participant shall, at the option of the Housing Program, be considered to have abandoned the unit. The Housing Program will proceed with Section 5 of this policy and Section 13 of the Collection's Policy. Upon completing all requirements of the policy and lease the DTHP will proceed with preparing the vacated unit for the next eligible participant on the Low Rent waiting list.
- B. The Housing Program will notify the participant that a claim for remaining personal property must be made within thirty (30) days or it will be disposed of by the Housing Program.

#### **X. Eviction Process**

- A. While it is the position of the Housing Program to provide every opportunity to Participant's to rectify any violations or breach of agreements before proceeding with the eviction process, certain situations require immediate termination as defined in Section III, E, 3 of this policy. After all administrative remedies have been exhausted the Housing Program will provide all documents regarding termination to the Housing Program attorney who shall file all necessary legal documents with local courts for eviction of the participant.
- B. Notices required under this policy, the Mutual Help and Occupancy Agreement, the Home Ownership Opportunity Program and the Rental Program Lease, will be personally served on the participant, or anyone of reasonable age and discretion in the household. Services may also be accomplished by certified mail, return receipt requested, properly addressed to the last known address, postage prepaid.
- C. As defined in Sections 6 and 7, if the participant abandons his or her unit by being absent with rent owed, notice may be served by posting on the dwelling and sending first class mail, postage prepaid and properly addressed to the last known address of the participant.