

# OFFICES OF THE BROWN COUNTY SHERIFF BROWN COUNTY JAIL BROWN COUNTY DETENTION CENTER

22 Court St. Ste. 1  
Aberdeen, South Dakota 57401  
(605) 626-7100

Date Received

Date \_\_\_\_\_ 20\_\_

## APPLICATION FOR EMPLOYMENT

NOTICE: APPLICANT SHOULD READ THE FOLLOWING INFORMATION CAREFULLY BEFORE FILLING OUT ANY OF THE QUESTIONS IN THIS FORM. WE DO NOT DISCRIMINATE IN HIRING OR EMPLOYMENT ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, STATUS WITH REGARD TO PUBLIC ASSISTANCE OR DISABILITY. NO QUESTION ON THIS APPLICATION IS INTENDED TO SECURE INFORMATION TO BE USED FOR SUCH DISCRIMINATION.

(PLEASE PRINT PLAINLY)

Last Name	First	Middle	Date
			Home Phone
			Bus Phone
Address-Including Box # Street # Name			SS#
			Date of Birth
City/State/Zip			Place of Birth
Position Desired			
Are you 21 years of age?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you ever filed an application with us before?			<input type="checkbox"/> Yes <input type="checkbox"/> No
			If Yes, give date _____
Have you ever been employed with us before?			<input type="checkbox"/> Yes <input type="checkbox"/> No
			If Yes, give date _____
Are you currently employed?			<input type="checkbox"/> Yes <input type="checkbox"/> No
May we contact your present employer?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you prevented from lawfully becoming employed in this country because of Visa or Immigration Status?			<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Proof of citizenship or immigration status will be required upon employment.</i>			
On what date would you be available for work? _____			
Are you available to work: <input type="checkbox"/> Full Time <input type="checkbox"/> Part Time <input type="checkbox"/> Shift Work <input type="checkbox"/> Temporary			
Are you currently on "lay-off" status and subject to recall?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Can you travel if a job requires it?			<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you been convicted of a felony			<input type="checkbox"/> Yes <input type="checkbox"/> No
Best contact time and phone number _____			
<p><i>All Applications Are Subject To Openings Available</i></p> <p><b>We Are An Equal Opportunity Employer</b></p>			



# REFERENCES

Name	Address	Telephone	How long known

\* Do not list former employers or relatives

Please describe the skills and aptitudes that you feel qualify you for a position with us. (You may wish to include activities and positions held in civic, community and school organizations, professional societies, special training and skills.)

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

**BE SURE TO READ THIS STATEMENT BEFORE SIGNING**

I HEREBY CERTIFY, that this application is complete to the best of my knowledge for the periods of employment listed and all information given is true and contains no misrepresentations.

1. I am aware that all statements submitted on this application are subject to investigation and verification.
2. I authorize the persons, schools, law enforcement agencies and other organizations or employers named in this application to provide information requested by the County of Brown in its processing of the application.
3. I agree to provide, upon request of the County, written releases and waivers of confidentiality.
4. I understand that any withholding of information or misrepresentation on this application or on County medical forms could result in rejection for employment, or if employed, termination from the County.

SIGN HERE  
IN INK \_\_\_\_\_

Date \_\_\_\_\_



# Application for Concealed Pistol Permit

Renewal \_\_\_ New \_\_\_ Pistol Permit Number \_\_\_\_\_

Last Name: \_\_\_\_\_ First: \_\_\_\_\_ Full Middle: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

Residence (if different): \_\_\_\_\_

Driver's License Number: \_\_\_\_\_ Employer: \_\_\_\_\_

Occupation: \_\_\_\_\_ Date Of Birth: \_\_\_\_\_ Birth Place: \_\_\_\_\_

Weight: \_\_\_\_\_ Height: \_\_\_\_\_ Eyes: \_\_\_\_\_ Hair: \_\_\_\_\_ Marital Status: \_\_\_\_\_

Scars/tatoos: \_\_\_\_\_

Home Phone Number: \_\_\_\_\_ Work Number: \_\_\_\_\_ Cell Number: \_\_\_\_\_

Are you a US citizen or a legal resident of the United States? \_\_\_\_\_ Years in SD: \_\_\_\_\_

Years in Brown County: \_\_\_\_\_ If less then 5, list previous address: \_\_\_\_\_

In case of an emergency notify: \_\_\_\_\_ Phone: \_\_\_\_\_

Have you ever had a pistol permit? \_\_\_\_\_ If yes, where: \_\_\_\_\_

Reason for pistol permit: \_\_\_\_\_

Do you have a criminal record? \_\_\_\_\_ If yes, give details: \_\_\_\_\_

Have you ever been:

- Treated for mental illness or committed to a mental institution..... \_\_\_\_\_
- Convicted of a drug related charge..... \_\_\_\_\_
- Addicted or used any drugs other than prescribed by a doctor..... \_\_\_\_\_
- Convicted of a crime of violence..... \_\_\_\_\_
- Treated or committed to any alcohol program ..... \_\_\_\_\_

**If the answer to any of the above questions is yes, list the date and details of each incident**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I, \_\_\_\_\_, do hereby state that I have not given false information or offered false evidence of my identity in applying for a pistol permit. I also know that the penalty for offering such false information to secure a pistol permit is a Class 6 Felony, SDCL 23-7-12.

**THIS APPLICATION IS ONLY VALID FOR 5 DAYS- You must reapply after 5 days.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

Sheriff dept. records: \_\_\_\_\_

Check done by: \_\_\_\_\_ Date: \_\_\_\_\_

NCIC: \_\_\_\_\_ State records: \_\_\_\_\_ Date: \_\_\_\_\_

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

RESIDENT WATCH INFORMATION

1. Homeowner's Name: \_\_\_\_\_ Renter: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Phone Number: \_\_\_\_\_
2. Address of Resident to be Checked: \_\_\_\_\_
3. Best directions to residents: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
4. Date & Time of Departure: \_\_\_\_\_  
 Date & Time of Return: \_\_\_\_\_
5. Will anyone else be checking or visiting this property? Yes \_\_\_\_\_ No \_\_\_\_\_  
 If yes, Who? \_\_\_\_\_ Phone Number \_\_\_\_\_  
 Relationship if any: \_\_\_\_\_
6. Please give complete information on the following:
- A. Will there be any cars or other vehicles left on the property? Yes \_\_\_\_\_ No \_\_\_\_\_
  - B. If Yes, give lic.# & Description: \_\_\_\_\_
  - C. Will there be any pets or animals left on the property? Yes \_\_\_\_\_ No \_\_\_\_\_
  - D. If yes, Please explain: \_\_\_\_\_
  - E. Are any lights set to come on automatically? Yes \_\_\_\_\_ No \_\_\_\_\_
  - F. Are the out buildings to be locked or unlocked? \_\_\_\_\_
  - G. Where can you be reached? \_\_\_\_\_
  - H. Who would you like contacted if necessary? \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_
  - I. Do they have a Key? Yes \_\_\_\_\_ No \_\_\_\_\_
  - J. Any additional information you care to give: \_\_\_\_\_

\*\*\*\*\* FOR OFFICE USE ONLY \*\*\*\*\*

Date & Time	Officer	Remarks
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		

# NOTICE TO QUIT

To: \_\_\_\_\_

***YOU ARE HEREBY NOTIFIED*** to quit and otherwise vacate the premises, which you now have possession of, located at \_\_\_\_\_.  
The owner of which is \_\_\_\_\_, and to surrender the possession thereof within three (3) days after the service of this notice upon you, exclusive of the day of such service.

***YOU ARE FURTHER NOTIFIED*** that your right to possession of the described real property has been terminated for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***YOU ARE FURTHER NOTIFIED*** that upon your failure to quit, legal proceedings may be instituted against you to recover possession of said property.

Dated at Aberdeen, South Dakota this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_.

Special Note:

\_\_\_\_\_  
Owner or Agent

\_\_\_\_\_  
Address

# LANDLORD—TENANT DISPUTES

The local building inspector, or state or local health department, are the authorities to contact if your complaint relates to the health or safety of the tenant(s). The name, address, and telephone number of those organizations can be found in your local telephone book under city, county or state government.

If you feel your grievance merits legal action, we suggest that you consult with a private attorney regarding the merit of your case. You also have the option of using small claims court. Additional information about this procedure is available from the Clerk of Courts office located at your county courthouse.



Many disputes could be avoided if landlords and tenants were aware of their rights and responsibilities to each other.

## INSPECT THE UNIT

Prospective tenants should be allowed to see the rental unit before they put their money down. They should also be allowed to inspect the appliances, electrical system, plumbing, heating and lights as well as locks and windows. Prospective tenants may, if they choose, make a list of any problems they discover, and may request that the landlord sign the list before the potential tenants sign a lease. This will assist in determining contested damages by the tenant during moving out inspections.

Landlords can refuse to cooperate (these are not "rights" legally enforceable in court), but cooperation is advised. To have a list is in the best interest of both parties, since it protects all if there is a disagreement over who is responsible for the repairs.

## RENTAL AGREEMENTS

A rental agreement is a legally binding contract between tenant and landlord of the rights and responsibilities of both parties. Renters are bound either by written leases or oral rental agreements **although it is best to have your agreement in writing**. A written lease can be for any length of time. It can be for a week, month, or a year or longer. A lease will normally include the rental period, the amount of monthly payment, rent due date, fees for late payment, security deposit requirement and conditions for its return. It may also include duties to repair, responsibility for utilities, pet policies, yard care, snow removal and other conditions the landlord or tenant may wish to include.

When a lease is signed by both parties, it becomes a binding legal contract. If any party does not fulfill the terms of the lease, the person who defaults can be sued.

### Before signing a lease consider the following suggestions:

- Read the entire contract and ask questions or obtain a legal opinion about unclear provisions.
- Do not move in or pay rent before lease is signed. Ask for changes. If tenants dislike certain provisions in the lease, they have the right to ask the landlord to amend the lease with written changes. However, if a landlord refuses, which he has a right to do, a tenant must decide whether to sign the lease. If changes are made, both the tenant and landlord should initial the changes.
- Do not rely on verbal statements. All promises and agreements should be in writing for your protection.
- Make sure all the blanks are filled or drawn through if they do not apply and the date is correct before signing.
- It is possible to make changes in a lease if they are agreed upon by both the landlord and the tenant.



Either delete the agreed upon change by drawing a line through it or add the desired clause to both the landlord and tenant copy and initial and date each change on both copies. If there is not enough room on the lease you will need to add another page entitled "Addendum to Lease." Write whatever additions to the lease that are agreed to and each party needs to sign and date the Addendum. Make sure both parties receive complete signed copies of any revised contract and Addendum.

- Remember, you need a **written** agreement to cancel your lease.

An **oral rental agreement** is the verbal relationship between a landlord and tenant(s). Just because the agreement is not down on paper, doesn't make the lease any less binding. However, oral agreements at times can be subject to misunderstandings resulting in the word of one against the other. The maximum length of time that an oral lease can be made is for one year. If there is no lease, the rental period is determined by the time period for which the rent is paid. If rent is paid every month, the tenancy is on a month-to-month basis. The tenant or the landlord must then give the other party one month's notice before leaving or ending a rental agreement. While the landlord is allowed to raise the rent or change other conditions of the agreement upon thirty (30) days notice, the tenant may terminate the lease on the first day of the next month by giving notice to the landlord within fifteen (15) days of receipt of the landlord's notice of modification. Whether there is a written agreement or not, the landlord and the tenant are subject to the laws of the State of South Dakota and cannot put something contrary to the laws into the lease or rental agreement. There are a number of clauses which are very undesirable and often illegal, including:

- Clauses which say the landlord will never be liable for damage or personal injury to you or your guests;
- Clauses in which a party admits responsibility, in advance, for any charge for damages;
- Clauses which allow the landlord to disregard responsibility for any repairs;
- Clauses which permit the landlord to enter the apartment at anytime and without notice;
- Clauses which give the landlord the right to evict you without proper notice;
- Clauses in which allow the landlord to take your possessions if you don't pay rent;
- Any clause which you agree to give up any rights you have under South Dakota or federal law.
- Clauses which differ from returning a security deposit or providing written statement showing specific reasons for not returning it within two weeks after termination by the tenant.

## **ADVANCE RENT REQUIREMENTS**

A landlord has the discretion to collect various deposits as well as some rent in advance. These advance payments generally vary in amount. You should be careful about making any deposit unless a definite decision has been made to move into the unit. A tenant who puts down a deposit, but then decides not to occupy the unit, may not be entitled to a refund.

## **APPLICATION FEES**

Some landlords require prospective tenants to pay an application fee. If required, the fee is used to cover the cost of checking the tenant's references. Prospective tenants should ask if an application fee is required and, if so, the amount of the fee. This should be considered when deciding where to rent. Tenants should also ask if application fees are refundable and request a receipt for payment.

## **SECURITY DEPOSITS**

A security or damage deposit is the most common requirement of landlords. Many landlords require a security or damage deposit from the tenant at the start of the rental period. This is money paid by the tenant and held by the landlord to pay for any damage beyond ordinary wear and tear the tenant or his guests might do to the rental unit, any unpaid rent, or any money the tenant owed to the landlord under some agreement. Before giving a security deposit, the tenant should inspect the premises and prepare a statement as to



its condition during a pre-rental walk through with the landlord. A statement should be made and signed by both landlord and tenant of such things as damaged areas or items, worn rugs, stains in the carpeting, broken fixtures, holes in the walls, screens, etc. The term "ordinary wear and tear" is vague and this will help protect both parties from misunderstandings later about what damage the tenant caused. A landlord may not require a security deposit in excess of one month's rent unless "special conditions" exist which "pose danger to maintenance of the premises." One example would be having an additional deposit for a pet. When a tenant moves out, the landlord is required either to return the deposit or to provide a written statement showing the specific reason for his failure to return it. This statement must be furnished within two weeks after the termination of the tenancy and the landlord's receipt of the tenant's mailing address or delivery instruction. The landlord may withhold from the deposit only such amounts as are necessary either to remedy defaults in the payment of rent or to restore the premises to its condition at the beginning of the tenancy (ordinary "wear and tear" excepted). If the landlord withholds the deposit, the tenant may also demand an itemized account of the deposit withheld. This must be provided within forty-five (45) days of the termination of the tenancy. If the landlord does not follow these rules for returning the deposit he or she forfeits all rights to the deposit. Any bad faith or malicious retention of a deposit by landlord of residential premises could also subject the landlord to punitive damages not to exceed two hundred dollars.

## **TENANT RIGHTS & RESPONSIBILITIES**

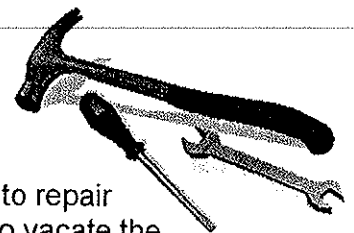
If you rent or lease a house, apartment, mobile home or storage space, you are a tenant. A tenant must pay their rent on time. Late payment or nonpayment of rent is the most common reason for eviction. A tenant must repair all damage to the premises caused by his or her ordinary negligence or that of their family, guests or pets (excludes ordinary wear and tear). Tenants must use ordinary care to preserve the premises in a good and safe condition and are responsible for the actions of their family, guests and pets within the premises or grounds.

## **QUIET ENJOYMENT**

A tenant has the right to possession and "quiet enjoyment" of the property he or she is renting - that is, to be free from unreasonable interference by the landlord or other persons. The landlord has the right to make a reasonable inspection, but only with prior notice to the tenant and at a reasonable time. Only in the event of an emergency may a landlord lawfully enter your apartment without notice to you. If it is impossible for you and your landlord to arrange a time he can come over then you may need to leave your key with a friend or relative or let the landlord make repairs when you are gone. If your time schedule forces your landlord to pay more for repairs (such as having to pay weekend rates to a plumber who could have come over during working hours) that cost could be passed on to you. Also, if your landlord is selling your rental unit, real estate agents are subject to the same rules about entering your property as your landlord. If a tenant continues to refuse reasonable entry to a landlord, the landlord can get a court order allowing entry or evicting the tenant and recovering actual money losses.

## **HABITABILITY/RIGHT TO REPAIR**

A landlord is required to keep rental premises in reasonable repair and fit for human habitation (except for damage caused by the tenant). This includes maintaining all electrical, plumbing and heating systems in a good and safe working order. This warranty of habitability cannot be waived or modified by the parties to the rental agreement. The parties, however, can agree to hold the tenant responsible for certain repairs instead of rent. When the landlord fails to repair the tenant's dwelling, the tenant may pursue either of two remedies. The first is to vacate the premises, in which case the tenant will be discharged from all further obligations under the lease. The second is to have the tenant make the repairs on his or her own, in which case the tenant may deduct



the expense of the repairs from the rent. These measures must be strictly followed. A tenant may wish to speak with a private attorney or legal aid office for advice before proceeding. Before the tenant can take either of these measures, he or she must give the landlord notice of the repairs that are needed, wait a reasonable length of time and act only when the landlord neglects to do so. This notice to the landlord should always be in writing, should state the repairs that are needed, and should give a specific reasonable deadline for making the repairs. You may need proof that you requested repairs if there is a dispute. Make sure you are specific about what needs repair and refer to the lease or rules if possible and it is best to send the notice to the landlord by registered/certified mail. You should also keep a copy of such correspondence. If the costs of the necessary repairs exceed one month's rent, the tenant may withhold his rent and deposit it in a separate bank account maintained for the purposes of making the repairs. If the rent is going to be deposited in a separate bank account the tenant must **FIRST** give written notice to the landlord stating the specific reason for withholding the rent and then provide the landlord written evidence of the deposit. The account is to be maintained until either the landlord makes the repairs or enough money accumulates to pay for the repairs. These repairs must be necessary to maintain the habitability of the premises such as plumbing, heating, security, electricity, etc. Another option that might be available to a tenant is checking with their local housing inspector in the city that they live, or with health, energy or fire inspectors to see if there are possible code violations. If code violations are detected generally the inspector will give the landlord a specific amount of time to fix them. A landlord cannot retaliate (strike back) by filing an eviction notice, or by increasing rent, or decreasing services, because a tenant contacts a governmental agency charged with the responsibility of enforcing a building and housing code.

## **LANDLORD RIGHTS & RESPONSIBILITIES**

The responsibilities of the landlord are to keep the premises in habitable condition, and leave the tenant to the quiet enjoyment of the property. The landlord has the right to the rent money (provided premises have been kept in good condition) and also the right to the premises, in good condition, after the rental period has ended. The landlord may also have other rights, as provided by a written rental agreement. A landlord has certain rights under certain circumstances, including the right to require a security deposit and the right to evict a tenant. A landlord may neither lock out a tenant nor interrupt the services, such as electric, gas, water or other essential services. Doing so could subject the landlord to damages of two months free rent and return of any advance rent and deposit paid to the landlord.

## **TERMINATING THE TENANCY**

### **Notice to Landlord:**

Leases can vary as to the time required to terminate the lease agreement. Most leases that specify a definite term of tenancy (such as a 6 month or 1 year lease) state the amount of time required for notice to terminate or renew the lease or they expire upon the termination of the expired time. If you have a lease read it carefully for notice requirements. If a written lease does not give a specific time period for renewal or expiration of the lease, then advance notice must be given at least one full rental period before the tenancy's last day.

The same holds true in month-to-month tenancies. Notice should also be given to terminate the lease at least one full rental period before the last day of your tenancy. If your rent is due on the first of the month, the notice must be given one full rental period before the end of paid lease term. This means the day before the last rent payment is due. For example, if a tenant who pays rent on the first day of each month wishes to leave at the end of June, the tenant must inform the landlord of the fact on or before May 31. No matter when during June the tenant actually leaves, the tenant is responsible for the entire month of June's rent. If the tenant misses the proper notice deadline – even by a day – the tenant is liable for an extra month's rent (July in this case).

**Notice from the Landlord:**

Unless a tenant is being evicted the landlord must give the same notice requirements as the tenant is required to give.

**EVICTION**

The only lawful way to evict a tenant is for the landlord to obtain a court order signed by the circuit court or magistrate judge. This is obtained in a lawsuit called a "forcible entry and detainer" action. After giving a three-day notice, a landlord can secure a court order to have a tenant evicted if:

- The person by force, intimidation, or fraud, goes onto the property of someone else that has rightful possession and takes over the possession. Or if they entered the property peacefully but by force, menace, or threat of violence, keeps possession of the property.
- The tenant is in unlawful possession of the landlord's property (by remaining on the property after the expiration of a rental agreement or failing to pay rent for more than three days after it is due);
- The tenant substantially damages the premises; or
- The tenant does or fails to do something which, under the terms of the lease, is identical to cancellation. A tenant must be given three (3) days notice to vacate before a forcible entry or detainer action can be commenced by a landlord. If the tenant refuses to move after three days, the landlord can then file a lawsuit (Forcible Entry and Detainer) for eviction. The lawsuit begins by serving the tenant with a Summons and Complaint which gives the tenant four days to file and serve a written answer. A telephone call does not constitute an answer nor does a letter written to the landlord. We recommend that you contact an attorney immediately upon receipt of a Summons and Complaint. If you fail to file and serve proper answer, a court order will be issued requiring the tenant to move. If an Answer is properly filed and served, the matter is brought on for hearing before the court. A landlord cannot just lock a tenant out, take their property, shut off the electricity, gas, water or other essential services. If a landlord resorts to such measures, the tenant may recover possession or end the rental agreement. The tenant may also be entitled to damages for loss of use of the premises or property and for any out-of-pocket expenses caused by the landlord's illegal conduct.

**RETALIATORY EVICTIONS PROHIBITED**

It is unlawful for a landlord to force a tenant into moving by raising the rent, decreasing services, or starting an eviction because of any of the following:

- Complaints to the landlord because needed repairs are not being made.
- Complaining to a governmental agency who can make inspections or force the landlord to make repairs.
- Becoming active in a tenant organization. If the landlord should start a retaliatory action within 180 days of an event specified above the landlord can be sued for retaliation and recover up to two months rent, return of any security deposit and up to \$500 in attorney fees. This is a summary of some of the various federal and state laws pertaining to landlord-tenant issues. It is considered educational material only. If you have questions regarding landlord-tenant issues contact the Division of Consumer Protection at 1-800-300-1986. But if you need legal advice we suggest that you contact a private attorney.

**Chapter 43-32.**

**\*REAL PROPERTY: LEASES**

- 43-32-1.....Leasing of real property defined.
- 43-32-2.....Limited term of lease--Agricultural land--Municipal lots.
- 43-32-3.....Hiring of real property presumed for one year--Exception.
- 43-32-4.....Hiring of lodgings--Length of term--Presumption.
- 43-32-5.....Lease of real property for more than one year--Written contract necessary.
- 43-32-6.....Obligations of lessor of real property--Tenant's remedies against lessor.
- 43-32-6.1.....Maximum security deposit for residential premises--Larger deposit by mutual agreement.
- 43-32-7.....Repealed.
- 43-32-8.....Residential lessor to keep premises in repair--Disrepair caused by lessee--Agreements for repairs in lieu of rent--Liability to third persons unaffected.
- 43-32-9.....Failure of lessor to repair premises--Lessee's remedies.
- 43-32-10.....Preservation of premises by lessee.
- 43-32-11.....Use of premises when leased for particular or specified purpose--Responsibility of lessee--Rescission of contract.
- 43-32-12.....Time for payment of rent--Agricultural and wildland--Lodging--Termination of hiring.
- 43-32-13.....Modification of lease--Written notice by landlord, effect--Termination by tenant.
- 43-32-14.....Retention of possession by lessee after expiration of hiring--Acceptance of rent by lessor--Renewal of hiring--Terms.
- 43-32-15.....Renewal of hiring of real property presumed unless notice given of termination.
- 43-32-16.....Tenant receiving notice of adverse proceedings--Duty to inform landlord.
- 43-32-17.....Attornment of tenant to stranger, validity--Consent of landlord--Judgment.
- 43-32-18.....Termination of lease by landlord before end of agreed term--Use of premises by tenant contrary to agreement--Neglect of tenant to make repairs.
- 43-32-19.....Termination of lease by tenant--Neglect of landlord to place tenant in quiet possession of premises--Neglect to keep premises in good condition--Destruction of premises.
- 43-32-20.....Assignment of lease by lessee--Breach of agreement--Recovery of possession--Remedies of lessor--Exception--Security for loan.
- 43-32-21.....Assignment of lease by lessor--Breach of agreement--Remedies of lessee--Covenants excepted.
- 43-32-22.....Termination of lease--Agreed term--Mutual consent--Acquisition of superior title by tenant.
- 43-32-22.1.....Continuation of farm lease absent notice--Time for notice--Termination without

- notice in case of default--Grassland included.
- 43-32-23.....Termination of lease at pleasure of either party--Death or incapacity to contract--Exception.
- 43-32-24.....Return of security deposit after termination of tenancy--Withholding--Itemized accounting--Forfeiture of withholding rights--Punitive damages.
- 43-32-25.....Small amount of tenant's property left on premises presumed abandoned--Disposal by lessor.
- 43-32-26.....Storage of tenant's valuable property left on premises--Lien--Disposal as abandoned after waiting period.
- 43-32-27.....Cause of action against lessor for retaliatory conduct.
- 43-32-28.....Lessee's remedies for retaliatory conduct by lessor.
- 43-32-29.....Rights and remedies preserved.
- 43-32-30.....Disclosure of knowledge of existence of prior manufacturing of methamphetamines.
- 43-32-31.....Notice to vacate and remove mobile or manufactured home from leased property.

**43-32-1. Definition - "Leasing of real property."**

Leasing is a contract by which one (the lessor or landlord) gives to another (the lessee or tenant) temporary possession and use of real property for reward and the lessee agrees to return such property to the lessor at a future time.

Source:(1)

**43-32-2. Limited term of lease - Agricultural land - Municipal lots.**

No lease or grant of agricultural land for a longer period than twenty years, in which shall be reserved any rent or service of any kind, shall be valid.

No lease or grant of any municipal lot for a longer period than ninety-nine years, in which shall be reserved any rent or service of any kind, shall be valid.

Source:(2)

Commission Note:(3)

**43-32-3. Hiring of real property presumed for one year - Exception.**

A hiring of real property, other than lodgings in places where there is no usage on the subject, is presumed to be for one year from its commencement unless otherwise expressed in the hiring.

Source:(4)

**43-32-4. Hiring of lodgings - Length of term - Presumption.**

A hiring of lodgings for an unspecified term is presumed to have been made for such length of time as the parties adopt for the estimation of the rent. Thus a hiring at a weekly rate of rent is presumed to be for one week. In the absence of any agreement respecting the length of

time of the rent, the hiring is presumed to be monthly.

**Source:(5)**

**43-32-5. Lease of real property for more than one year - Written contract necessary.**

No agreement for the leasing of real property or an interest therein for a longer period than one year is valid unless the same, or some note or memorandum thereof, be in writing, signed by the lessor or his agent thereunto authorized in writing.

**Source:(6)**

**43-32-6. Obligations of lessor of real property - Tenant's remedies against lessor.**

A lessor shall deliver the leased premises to the lessee and secure his quiet enjoyment thereof against all lawful claimants.

If the lessor of residential property unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water, or other essential service to the tenant, the tenant may sue for injunctive relief, recover possession by suit, or terminate the rental agreement and, in any case, recover from the lessor damages in an amount equal to two months rent and the return of any advance rent and deposit paid to the lessor by the lessee.

**Source:(7)**

**43-32-6.1. Maximum security deposit for residential premises - Larger deposit by mutual agreement.**

Any deposit of money, the function of which is to secure the performance of a residential rental agreement or any part of such an agreement, shall be deemed to be a security deposit. A lessor of residential premises may not demand or receive a security deposit, however denominated, in an amount or value in excess of one month's rent except that a larger deposit may be agreed upon between the lessor and lessee where special conditions pose a danger to maintenance of the premises.

**Source:(8)**

**43-32-7. [Repealed] Hiring part of room for dwelling - Right to whole of the room for term agreed upon - Double letting relieves tenant from obligation to pay rent.**

[Repealed by SL 1983, ch 13, §29.]

**43-32-8. Residential lessor to keep premises in repair - Disrepair caused by lessee - Agreements for repairs in lieu of rent - Liability to third persons unaffected.**

In every hiring of residential premises, whether in writing or parol, the lessor shall keep the premises and all common areas in reasonable repair and fit for human habitation and in good and safe working order during the term of the lease except when the disrepair has been caused by the negligent, willful or malicious conduct of the lessee or a person under his direction or control.

The lessor shall maintain in good and safe working order and condition all electrical, plumbing or heating systems of the premises, except when the disrepair has been caused by the negligent, willful or malicious conduct of the lessee or a person under his direction or control.

The parties to a lease or hiring of residential premises may not waive or modify the requirements imposed by this section; however, the lessor may agree with the lessee that the lessee shall perform specified repairs or maintenance in lieu of rent.

The provisions of this section shall be in addition to any covenants or conditions imposed by law or ordinance or by the terms of the lease. Nothing in this section shall be construed to alter the liability of the lessor or lessee of residential premises for injury to third parties.

Source:(9)

**43-32-9. Failure of lessor to repair premises - Lessee's remedies.**

If within a reasonable time after notice to the lessor of conditions requiring repair to make the premises fit for human habitation and to place the same in good and safe working order which the lessor ought to repair he neglects to do so, the lessee may repair the same himself and deduct the expense of such repairs from the rent, or otherwise recover it from the lessor; or the lessee may vacate the premises; in which case he shall be discharged from additional charges of rent or performance of other conditions.

If the cost of necessary repairs exceeds one month's rent, after written notice stating the specific reason for the withholding, the lessee may withhold payment of rent and immediately deposit it in a separate bank or savings and loan account, written evidence of such action to be provided to the lessor upon deposit, maintained only for the purpose of making repairs until such time as the lessor makes the repairs, at which time the lessee shall release the deposit to the lessor or until sufficient money is accumulated in the account for the lessee to cause the repairs to be made and paid for.

Source:(10)

**43-32-10. Preservation of premises by lessee.**

In every hiring of residential premises, whether in writing or parol, the lessee shall preserve the premises, appliances, appurtenances and other leased personalty in good condition, and repair all deteriorations or damage thereto occasioned by his negligent, willful or malicious conduct or such conduct of persons acting under his direction or control.

Source:(11)

**43-32-11. Use of premises when leased for particular or specified purpose - Responsibility of lessee - Rescission of contract.**

If premises are leased for a particular and specified purpose the tenant must not use the premises for other purposes; and if he does, the landlord may hold him responsible for the safety of the premises during such use, at all events, or he may treat the contract as thereby rescinded.

Source:(12)



**43-32-12. Time for payment of rent - Agricultural and wildland - Lodging - Termination of hiring.**

When there is no contract or usage to the contrary, the rent of agricultural and wildland is payable yearly at the end of each year. Rents of lodgings are payable monthly at the end of each month. Other rents are payable quarterly at the end of each quarter from the time the hiring takes effect. The rent for a hiring shorter than the periods herein specified is payable at the termination of the hiring.

**Source:(13)**

**43-32-13. Modification of lease - Written notice by landlord, effect - Termination by tenant.**

In all leases of lands or tenements or of any interest therein from month to month the landlord may, upon giving notice in writing at least thirty days before the expiration of the month, modify the terms of the lease to take effect at the expiration of the month. The notice, when served upon the tenant, shall of itself operate and be effectual to create and establish as a part of the lease the terms, rent, and conditions specified in the notice, if the tenant shall continue to hold the premises after the expiration of the month. The tenant may terminate his lease effective the first day of the next month by providing notice of termination to the landlord within fifteen days of receipt by the tenant of the notice of modification.

**Source:(14)**

**43-32-14. Retention of possession by lessee after expiration of hiring - Acceptance of rent by lessor - Renewal of hiring - Terms.**

If a lessee of real property remains in possession thereof after the expiration of the hiring and the lessor accepts rent from him, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding one year.

**Source:(15)**

**43-32-15. Renewal of hiring of real property presumed unless notice given of termination.**

A hiring of real property for a term not specified by the parties is deemed to be renewed as stated in § 43-32-14 at the end of the term implied by law unless one of the parties gives notice to the other of his intention to terminate the same at least as long before the expiration thereof as the term of the hiring itself, not exceeding one month.

**Source:(16)**

**43-32-16. Tenant receiving notice of adverse proceedings - Duty to inform landlord.**

Every tenant who receives notice of any proceeding to recover the real property occupied by him or the possession thereof must immediately inform his landlord of the same and also deliver to the landlord the notice, if in writing, and is responsible to the landlord for all damages which he may sustain by reason of any omission to inform him of the notice or to deliver to him,

if in writing.

**Source:(17)**

**43-32-17. Attornment of tenant to stranger, validity - Consent of landlord - Judgment.**

The attornment of a tenant to a stranger is void unless it is made with the consent of the landlord or in consequence of a judgment of a court of competent jurisdiction.

**Source:(18)**

**43-32-18. Termination of lease by landlord before end of agreed term - Use of premises by tenant contrary to agreement - Neglect of tenant to make repairs.**

A landlord may terminate a lease and reclaim the premises before the end of the agreed term:

- (1) When the tenant uses or permits a use of the premises in a manner contrary to the lease agreement; or
- (2) When the tenant does not within a reasonable time after request make such repairs as he may be bound to make.

**Source:(19)**

**43-32-19. Termination of lease by tenant - Neglect of landlord to place tenant in quiet possession of premises - Neglect to keep premises in good condition - Destruction of premises.**

A tenant may terminate a lease before the end of the term:

- (1) When the landlord does not within a reasonable time after request fulfill his obligations, if any, as to placing and securing the tenant in quiet possession of the premises or putting the premises into good condition or repairing the same; or
- (2) When the greater part of the leased premises or that part which was, and which the landlord had at the time of leasing, reason to believe was the material inducement to the tenant to enter into the contract, is destroyed, from any other cause than the ordinary negligence of the tenant.

**Source:(20)**

**43-32-20. Assignment of lease by lessee - Breach of agreement - Recovery of possession - Remedies of lessor - Exception - Security for loan.**

Whatever remedies the lessor of any real property has against his immediate lessee for the breach of any agreement in the lease or for recovery of the possession, he has against the assignees of the lessee for any cause of action accruing while they are such assignees, except where the assignment is made by way of security for a loan and is not accompanied by possession of the premises.

**Source:(21)**

**43-32-21. Assignment of lease by lessor - Breach of agreement - Remedies of lessee - Covenants excepted.**

Whatever remedies the lessee of any real property may have against his immediate lessor, for the breach of any agreement in the lease, he may have against the assigns of the lessor, and the assigns of the lessee may have against the lessor and his assigns, except upon covenants against encumbrances or relating to the title or possession of the premises.

Source:(22)

**43-32-22. Termination of lease - Agreed term - Mutual consent - Acquisition of superior title by tenant.**

A lease is terminated:

- (1) By the expiration of the agreed term;
- (2) By the mutual consent of the parties;
- (3) By the tenant acquiring a title to the leased premises superior to that of the landlord.

Source:(23)

**43-32-22.1. Continuation of farm lease absent notice - Time for notice - Termination without notice in case of default - Grassland included.**

In the case of farm tenants, occupying and cultivating agricultural land of forty acres or more, under an oral lease, the tenancy shall continue for the following crop year upon the same terms and conditions as the original lease unless written notice for termination is given by either party to the other by September first, whereupon the tenancy shall terminate March first following. The tenancy may not continue because of absence of notice if there is default in the performance of the existing rental agreement. For the purpose of this section, agricultural land includes grassland, either native or tame.

Source:(24)

Amendments:(25)

**43-32-23. Termination of lease at pleasure of either party - Death or incapacity to contract - Exception.**

If a lease is terminable at the pleasure of one of the parties, it is terminated by notice to the other of such party's death or incapacity to contract. In other cases it is not terminated by such death or incapacity.

Source:(26)

**43-32-24. Return of security deposit after termination of tenancy - Withholding - Itemized accounting - Forfeiture of withholding rights - Punitive damages.**

Every lessor of residential premises shall, within two weeks after the termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the security deposit to the tenant, or furnish to the tenant, a written statement showing the specific reason for

the withholding of the deposit or any portion thereof. The lessor may withhold from such deposit only such amounts as are reasonably necessary to remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement or to restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted. Within forty-five days after termination of the tenancy, upon request of the lessee, the lessor shall provide the lessee with an itemized accounting of any deposit withheld.

Any lessor of residential premises who fails to comply with this section shall forfeit all rights to withhold any portion of such deposit.

The bad faith retention of a deposit or any portion of a deposit by a lessor of residential premises in violation of this section, including failure to provide the written statement and itemized accounting required by this section, shall subject the lessor to punitive damages not to exceed two hundred dollars.

**Source:(27)**

**43-32-25. Small amount of tenant's property left on premises presumed abandoned - Disposal by lessor.**

The property of a lessee, the total reasonable value of which does not exceed five hundred dollars, left on leased residential premises by the lessee for ten days after the lessee has quit the premises, is presumed to have been abandoned by the tenant and the lessor of the residential premises may dispose of the abandoned property.

**Source:(28)**

Amendments - 2008:(29)

**43-32-26. Storage of tenant's valuable property left on premises - Lien - Disposal as abandoned after waiting period.**

The property of a lessee, of a total reasonable value exceeding five hundred dollars, left on leased residential premises by the lessee after the lessee has quit the premises, shall be stored by the lessor. The lessor shall have a lien on the property to the extent of the costs of handling and storing the property. After storing the property for thirty days or more the lessor may treat the property as abandoned and dispose of it.

**Source:(30)**

Amendments - 2008:(31)

**43-32-27. Cause of action against lessor for retaliatory conduct.**

A cause of action may arise in favor of a lessee and against a lessor of residential property, including a manufactured or mobile home community owner, for retaliation by the lessor against the lessee if the lessor increases rents above fair market value; if the lessor decreases electric, gas, water, or sewer services; or if the lessor gives the lessee notice to vacate the premises when such notice is not based upon a breach of the terms of the lease; subsequent to

any of the following special events:

- (1) The lessor has received written notice from the lessee or a governmental agency that the lessee has complained to a governmental agency charged with responsibility for enforcement of a building or housing code violation applicable to the premises and materially affecting health and safety, and the complaint is determined to be reported in good faith; or
- (2) The lessee has given written notice to the lessor of a condition requiring repair pursuant to § 43-32-9; or
- (3) The lessee has organized or become a member of a tenant's union or organization.

It shall be a defense to this cause of action that the notice to vacate the premises was given by the lessor more than one hundred eighty days after the occurrence of a special event. The failure of the lessor to renew any written lease prior to or upon its expiration, is not retaliation.

**Source:(32)**

**43-32-28. Lessee's remedies for retaliatory conduct by lessor.**

If the lessor acts in violation of § 43-32-27, the lessee is entitled to the remedies provided in § 43-32-6. The court may award the lessee reasonable attorney's fees, not to exceed five hundred dollars.

**Source:(33)**

**43-32-29. Rights and remedies preserved.**

All other rights or remedies of the lessor and the lessee pursuant to any other provision of the law are preserved, except as modified by §§ 43-32-27 and 43-32-28.

**Source:(34)**

**43-32-30. Lessor to disclose to lessee prior manufacturing of methamphetamines on rental premises.**

In any hiring of a residential premises, any lessor who has actual knowledge of the existence of any prior manufacturing of methamphetamines on the premises shall disclose that information to any lessee or any person who may become a lessee. If the residential premises consists of two or more housing units, the disclosure requirements provided by this section only apply to the unit where there is knowledge of the existence of any prior manufacturing of methamphetamines.

**Source:(35)**

**43-32-31. Notice to vacate and remove mobile or manufactured home from leased property.**

Any person who leases real property to an owner of a mobile or manufactured home shall, if the property is developed for an alternate use, give no less than ninety days notice to vacate and remove the home from the real property. The provisions of this section do not apply if the notice

Printed from Dakota Disc

is based upon a breach of the terms of a lease.

Source:(36)

**EXECUTION INFORMATION WORK SHEET**

DATE \_\_\_\_\_

CREDITOR NAME \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

**PLEASE FILL OUT FOLLOWING DEBTOR INFORMATION:**

DEBTOR  
NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_

SOCIAL SECUTIRY NUMBER \_\_\_\_\_

PHONE  
NUMBER \_\_\_\_\_

EMPLOYMENT \_\_\_\_\_

SPOUSE NAME \_\_\_\_\_

NAME OF BANK \_\_\_\_\_

## EXECUTION PROCEEDURE

The Brown County Sheriff's office processes approximately 40 executions per month. Once an execution is received at the Sheriff's Office, we have 60 days to effect the writ. Executions are worked in the order they are received. From time to time this order may be deviated from due to a special circumstance or Court Order. If there is more than one execution for the same defendant, they must be worked in the order they were received.

When the execution is received our first step is to research what property and banks accounts are in the defendants name. After the research, it is given to the Deputies. The Deputy will review the research, read any attachments and make a determination as to which way to proceed.

**Costs** - This is not a free service. There is a statutory <sup>35</sup> \$16 Sheriff's fee to process an execution. This \$16<sup>35</sup> must be paid regardless of satisfaction and each time the execution is issued. Other costs that may arise include filing fees, certified mailings, publication fees, and towing. Any costs incurred are the responsibility of the creditor. Generally, costs will be covered by the proceeds of any levies done, if there are costs remaining you will be billed.

**Levies** - Once property has been located and is found to be free of encumbrances, the property is seized by taking the property into physical custody of the Sheriff, this is called a Levy, SDCL 15-18-20. The property is stored by the Sheriff's Office until it is either released by Court Order or sold at auction. A Notice of Levy (SDCL 21-19-3) then needs to be served on the Debtor. If the Debtor is not available when the Levy is done, legal service may be made by certified mail to the last known address of the Debtor. If the Debtor is served personally they have five days from the date of service to respond to the Levy. If the Notice of Levy was served by certified mail the Debtor has eight days from the date it was mailed. ~~The original Notice of Levy must be filed with the Register of Deeds.~~

**Claim of Exemption** - Besides property which falls under **Absolute Exemptions** (SDCL 43-45-2 and 43-45-3), the law in SDCL 43-45-4 grants the head of a family \$1500 and a single person \$600 of property that is exempt from levy to satisfy a judgment. By filing Claim of Exemption, the Debtor is saying the property levied on falls within this amount granted by law. The Debtor must serve both the Sheriff's Office and the Creditor with a copy of the Claim of Exemption. It is then up to the Creditor to accept or deny the claim. If they deny the claim, they need to go to court for a ruling if the property indeed falls within the amount granted by law.

**Real Estate** - After all other options have been exhausted we may levy on Real Property. Research will show the existence of any real property in the county. The Register of Deeds office will have the records to show if the property is mortgaged or not. Each home owner is allowed \$30,000 as a Homestead Exemption, that is they are allowed \$30,000 which is exempt from levy. If there is more than \$30,000 in equity you may do a levy.

*we*



**Sheriff's Sales** - After the time period for the plaintiff to file claims of exemptions has expired the property must be sold at a public auction to the highest bidder. We must publish the sale notice in the largest paper in the county. It must be published once 10 days prior to the sale in the case of personal property. Notices for real property must be published four times prior to the sale.

Auctions on real property can be held at the front door of the court house. Auctions on personal property are generally held at the Impound lot on 1st Avenue Southeast in Aberdeen. We must accept any reasonable bid (\$100 for a \$40,000 home is unreasonable, \$20 probably is for an old vehicle). Quite often we may not even cover the costs involved in the sale of personal property.

Once the sale is complete, the moneys are returned to the creditor. All fees and costs are deducted from the amount collected before it is returned.