

KANKAKEE COUNTY HOUSING AUTHORITY
185 NORTH ST. JOSEPH STREET
KANKAKEE, IL 60901

GRIEVANCE PROCEDURE



Updated January 2021

TABLE OF CONTENTS

I.	PURPOSE AND SCOPE	1
II.	APPLICABILITY	1
III.	DEFINITIONS	2
	A. Grievance	2
	B. Complainant.....	2
	C. Elements of Due Process	2
	D. Hearing Officer	2
	E. Hearing Panel.....	2
	F. Tenant	2
	G. Resident Organization.....	3
	H. Informal Settlement	3
	I. Summary of Discussion	3
	J. Escrow.....	3
	K. Waiver.....	3
	L. Trial de novo	3
IV.	INFORMAL SETTLEMENT OF GRIEVANCE.....	3
V.	PROCEDURE TO OBTAIN A FORMAL HEARING.....	4
VI.	FAILURE TO REQUEST A FORMAL HEARING	4
VII.	HEARING INVOLVING AMOUNT OF RENT – ESCROW ACCOUNT	4
VIII.	SCHEDULE OF HEARINGS	5
IX.	FAILURE TO APPEAR AT THE HEARING.....	5
X.	PROCEDURE GOVERNING HEARING	6
XI.	DECISION OF HEARING OFFICER	7

GRIEVANCE PROCEDURE

I. PURPOSE AND SCOPE

This Grievance Procedure sets forth the requirements, standards, and criteria established to assure the tenants of the Kankakee County Housing Authority (the “Authority”) have an opportunity for a Hearing if any individual tenant disputes any Authority action or failure to act involving the tenant’s lease or Authority regulations which adversely affect the individual tenant’s rights, duties, welfare or status. The KCHA will conduct grievance hearings in person, or by telephone, email and or video. Allowances will be made for persons with disabilities, or access to means to conduct hearings remotely.

II. APPLICABILITY

- A. This procedure applies to all grievances between individual tenants and the Authority as defined below in Section III. A.
- B. This Grievance Procedure does not apply to:
 - 1. Disputes between tenants in which the Authority is not involved;
 - 2. Any changes in Authority policies and procedures. This procedure is not intended as a forum for initiating or negotiating policy changes between a tenant or group of tenants and the Authority.
 - 3. Class grievances.
 - 4. Termination of tenancy or eviction that involves:
 - a. Any criminal or other activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the Authority; OR
 - b. Any drug-related criminal activity on or off the premises; OR
 - c. Non-payment of rent, except when the dispute involves the amount of rent owed to the Authority.
- C. The Escrow Account requirement (See Section VII below and also 24 CFR 966.55(3)(e)) does not apply to residents who have requested a financial hardship exemption from minimum rent requirements, if applicable, or who are subject to imputed welfare income because welfare benefits have been decreased because of fraud or failure to comply with requirements. The resident is not required to pay an escrow deposit for the portion of the rent attributable to the imputed welfare income.

III. DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions apply:

- A. Grievance – Any disagreement which a tenant may have with respect to Authority action or failure to act in accordance with the individual tenant’s lease or Authority regulations which adversely affect the individual tenant’s rights, duties, welfare or status.
- B. Complainant – Any tenant whose grievance is presented to the Authority in accordance with Sections IV and V of this procedure.
- C. Elements of Due Process – Legal proceedings carried out in accordance with established rules. Any eviction or termination proceeding requires:
 - 1. Adequate notice to the tenant of the grounds for terminating his or her lease and for eviction in accordance with the tenant’s lease and/or federal and state law as applicable.
 - 2. The right of the tenant to be represented by legal counsel.
 - 3. The opportunity for the tenant to refute the evidence presented by the Authority including the right to confront and cross-examine witnesses and to present any affirmative legal or fair defense which the tenant may have. The tenant may examine (and make copies of at the tenant’s own expense) all relevant documents, records, policies, and regulations of the Authority prior to the hearing for the purpose of preparing a defense, except those documents exempt from inspection under the Illinois Freedom of Information Act (5 ILCS 140/7).
 - 4. A decision on the merits.
 - 5. A person with disabilities shall be provided reasonable accommodation to the extent necessary to provide the person with the opportunity to participate in a grievance hearing.
- D. Hearing Officer – A person selected by the Executive Director to hear grievances and make a decision. See Section V.B.
- E. Hearing Panel – A panel selected by the Executive Director to hear grievances and to make a decision.
- F. Tenant – The adult person (or persons) other than a live-in aide who:
 - 1. Resides in the unit and who executed the lease with the Authority as lessee of the dwelling unit;

or, if no such person now resides in the unit:

- 2. Resides in the unit and is a remaining member of the tenant family residing in the dwelling unit.
- G. Resident Organization – Includes Resident Councils, Resident Advisory Boards, and Resident Management Corporations.
- H. Informal Meeting – Meeting held with complainant and the Authority in an attempt to resolve the grievance before going to a formal grievance hearing.
- I. Informal Grievance – Written or oral presentation of grievance by complainant to the Authority at the informal meeting.
- J. Summary of Discussion – A detailed, written document that provides information in writing on the major points discussed in the informal meeting and the Authority’s decision on the grievance.
- K. Escrow – Money held by a third party fiduciary as a good faith promise until a determination is made on what to do with the money. The escrow amount can be deposited into a bank account or held by an uninterested, independent third party with the equivalent security and accountability as a bank account.
- L. Waiver – The release of a right or claim.
- M. Trial de novo – The right to a new trial.

IV. INFORMAL SETTLEMENT OF GRIEVANCE

- A. If a tenant chooses to resolve his/her problem through the Grievance Procedure, he/she must request an informal meeting in writing within ten (10) business days from the date the problem originally arose.
- B. The Authority will schedule an informal meeting within ten (10) business days of receipt of the written request.
- C. The tenant must attend the informal meeting and personally present the grievance, either orally or in writing, so that it may be informally discussed and settled without a formal hearing. The informal meeting shall be conducted by a staff person selected by the Executive Director, who was not involved in the original decision or is not a subordinate of the person involved in the original decision.
- D. Within ten (10) business days after the informal meeting, the Authority shall provide a written Summary of Discussion and send it to the tenant by Registered or Certified Mail or deliver it personally with a signed receipt obtained from the tenant. A copy will be retained in the tenant’s file. The summary will specify:
 - 1. Names of participants;
 - 2. Date of the discussion;
 - 3. Nature of proposed disposition of the grievance;

4. Specific reason for proposed disposition of the grievance;
 5. Procedures by which a Hearing may be obtained if the tenant is not satisfied; and
 6. That the tenant has ten (10) business days from the date of the summary of the discussion to request a hearing.
- E. Before a tenant can request a formal hearing by a Hearing Officer, the complainant must first submit the grievance for an informal meeting.

V. PROCEDURE TO OBTAIN A FORMAL HEARING

- A. Request for a Hearing. If the tenant is dissatisfied with the final results of the informal meeting, he or she must submit a written request to the Authority within ten (10) business days after the receipt of the Summary of Discussion pursuant to Section IV. The written request for a formal hearing must specify the reason(s) for the grievance and the action or relief sought.
- B. Selection of Hearing Officer. Grievances shall be presented before a Hearing Officer. The Hearing Officer shall be an impartial, disinterested person selected by the Executive Director from a list of potential Hearing Officers compiled by the Authority. The person selected by the Executive Director for each grievance shall be other than the person who made or approved the Authority action under review or a subordinate of that person.
- C. Formal Hearing Prerequisite. All grievances shall utilize the procedures for an informal meeting as outlined in Section IV, Informal Settlement of Grievance, as a condition precedent to a hearing under Section V. If the tenant can show good cause why he/she failed to follow the procedure for an informal settlement to the Hearing Officer, the prerequisite informal settlement may be waived by the Hearing Officer.

VI. FAILURE TO REQUEST A FORMAL HEARING

If the tenant does not request a formal hearing within ten (10) business days following the date of the Summary of Discussion, the disposition of the grievance as provided in the Summary of Discussion shall become final and effective.

The tenant's failure to request a formal hearing does not waive his/her right to contest the disposition of the grievance in an appropriate judicial proceeding before a court of competent jurisdiction.

VII. HEARING INVOLVING AMOUNT OF RENT – ESCROW ACCOUNT

Before a hearing can be scheduled for a grievance involving the amount of rent as defined in the lease, the tenant must:

- A. Pay the Authority the full amount of rent, calculated by the Authority, which was due on the first of the month preceding the month in which the grievance occurred; and
- B. Deposit this same amount of rent due into an escrow account every month until the grievance is resolved by the Hearing Officer's decision.

If the tenant fails to comply with A and B above, the grievance process will be terminated. Failure to follow A and B above, however, does not waive any of the tenant's rights to contest the Authority's disposition of the grievance in an appropriate judicial proceeding.

The requirements described in Section VII of this Grievance Procedure may be waived by the Authority in extenuating circumstances.

VIII. SCHEDULE OF HEARINGS

If the tenant has met the informal meeting requirements, properly requested a formal hearing and made any necessary rental payments to the Authority or to an escrow account (when applicable), then the following will take place:

- A. Upon receipt of the Request for the Hearing, a formal hearing will be promptly scheduled by the Hearing Officer for a time and place reasonably convenient to both the complainant and the Authority. The written notification will be delivered to the tenant and appropriate Authority officials, by Registered or Certified mail, or delivered promptly with a signed receipt notice.
- B. The written notification will specify:
 - 1. The time of hearing.
 - 2. Place of hearing.
 - 3. Procedures governing the hearing.

IX. FAILURE TO APPEAR AT THE HEARING

- A. If the tenant fails to appear at the formal hearing, the Hearing Officer may make a determination to postpone the hearing for a period not to exceed five (5) business days, or may make a determination that the non-appearing party has waived the right to a hearing.
- B. The tenant and the Authority will both be notified in writing of this determination by the Hearing Officer within a reasonable time.
- C. Failure of the tenant to appear at the hearing and a determination that he or she has waived the right to a hearing does not waive the tenant's right to argue the case in an appropriate judicial proceeding.

- D. Tenants may request that a formal hearing be rescheduled. This request must be made at least 2 working days of the time scheduled for the hearing. A formal hearing will be rescheduled only one time.

X. PROCEDURE GOVERNING HEARING

- A. The hearing shall be held before the Hearing Officer.
- B. The tenant shall be afforded a fair hearing, which shall include:
 - 1. The opportunity to examine, prior to the hearing, any documents, including records and regulations that are directly relevant to the hearing, except those documents exempt from inspection under the Illinois Freedom of Information Act (5 ILCS 140/7). The tenant shall be allowed to copy such documents at his or her own expense. Any document requested but not made available to the tenant for examination may not be relied on by the Authority during the hearing;
 - 2. The right to be represented by counsel or other person chosen as his or her representative and to have this person make statements on the tenant's behalf;
 - 3. The right to a private hearing unless the tenant requests a public hearing;
 - 4. The right to present evidence and arguments in support of his or her complaint, to object to irrelevant evidence and request that such evidence be excluded, and to confront and cross-examine all witnesses on whose testimony or information the Authority or project management relies; and
 - 5. A decision based solely and exclusively upon the facts presented at the hearing.
- C. Hearing Officer may render a decision without holding the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.
- D. At the hearing, the tenant must first show that he or she is entitled to the relief sought after which the Authority must justify the action or failure to act as cited in the complaint.
- E. The hearing shall be conducted informally by the hearing officer and oral or documentary evidence pertinent to the facts and issues mentioned in the complaint may be received without regard to admissibility under the rules of evidence applicable in judicial proceedings.
- F. The Hearing Officer shall require the Authority, the tenant, tenant's counsel and other participants or spectators to conduct themselves in an orderly fashion.

- G. Failure to comply with the hearing officer's call for order may result in removal of the offending person from the proceedings, termination of the hearing, or the entry of judgment by default against the offending person.
- H. The tenant or the Authority may arrange in advance, and at the expense of the party making the arrangement, for the minutes of the hearing. Any interested person may purchase a copy of the minutes.
- I. Accommodation of Persons with Disability
 - 1. The Authority will take steps to insure that reasonable accommodation for persons with disabilities is provided so that participation in any hearing is possible. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations or attendants.
 - 2. If the tenant is visually impaired, any notice required under this Grievance Procedure must be in an accessible format.

XI. DECISION OF HEARING OFFICER

- A. The Hearing Officer will prepare a written decision, including an explanation of the reasons for the decision, within ten (10) business days after the hearing.
- B. A copy of the decision will be sent to the tenant and the Authority at the same time. The Authority shall retain a copy of the decision in the tenant's folder.
- C. The decision of the Hearing Officer will be binding on the Authority which will take all actions, or refrain from any actions, necessary to carry out the decision unless the Executive Director determines within a reasonable time, and promptly notifies the complainant of his/her determination, that:
 - 1. The grievance does not concern any act or failure to act on the part of the Authority involving the tenant's lease or Authority regulations which adversely affect the tenant's rights, duties, welfare or status; or
 - 2. The decision of the Hearing Officer is contrary to applicable Federal, State and/or local law, HUD regulations or requirements of the Annual Contributions Contract between the Department of Housing and Urban Development and the Authority.
- D. A decision by the hearing officer or Executive Director in favor of the Authority, or which denies the relief requested by the tenant in whole or in part, does not waive or affect any rights the tenant may have to a trial de novo or judicial review in any court of competent jurisdiction, which may be filed in the future.