

# Appendix E

## Former Tenant Security Deposit Dispute Hearing Procedure

### I. Applicability

The Move-Out Hearing Procedure applies to the informal hearing conducted at the request of a former tenant of public housing who wishes to dispute the Security Deposit Statement issued by the PHA to the former tenant. The procedure does not apply in any other circumstances.

### II. Definitions

- A. **“Complainant”** means a former tenant who has received a Move-Out Settlement Statement from the PHA and wishes to dispute all or part of it.
- B. **“Former Tenant”** means a person who was a tenant of the PHA’s public housing program, and has, for whatever reason, left public housing.
- C. **“Hearing Officer”** means the person designated by the PHA to conduct an informal hearing for a Complainant, other than the person who made or approved the Move-Out Settlement Statement.
- D. **“Security Deposit Statement”** means the document issued to a former tenant and which itemizes the credits and charges as they appear on the PHA’s accounting record for the former tenant.

### III. Request For An Informal Hearing

- A. **Request for Hearing:** A Complainant must submit a written request for an informal hearing to Management within 10 calendar days from the date of the PHA’s issuance to the Complainant of the Move-Out Settlement Statement.
- B. **Scheduling of Hearing:** Upon receipt of a timely request for a hearing, the Complainant will be notified in writing of the date, time and location of the hearing. The informal hearing will be held before a Hearing Officer. A copy of the procedures governing the hearing will be included with the notification.
- C. **Failure to Request a Hearing:** If the Complainant does not request a hearing in accordance with this hearing procedure, then the PHA’s determination in the Move-Out Settlement Statement will become final.

## **IV. Procedure Governing An Informal Hearing**

- A.** The hearing will be held before a Hearing Officer.
- B.** The PHA will present its reasons and documentary evidence for the information and determinations contained in the Security Deposit Statement issued to the Complainant.
- C.** The Complainant will have the opportunity to present written or oral objections to the PHA determination, along with other factual information that might lead the Hearing Officer to modify the Security Deposit Statement.
- D.** The Complainant may not contest any credits or charges listed on the Security Deposit Settlement Statement, which the Complainant has already been provided an opportunity to contest through the PHA's Grievance Procedure.
- E.** The Complainant also has the right:
  - 1. Before the hearing, to examine all PHA documents and regulations of the PHA that are directly relevant to the hearing. The Complainant may also copy such documents at the Complainant's expense.
  - 2. At the expense of the Complainant, to be represented by a lawyer or other person the Complainant chooses as the Complainant's representative.
  - 3. To question any witness or witnesses.
  - 4. To a decision made by the Hearing Officer that is based on the evidence presented at the hearing.
- F.** The PHA must be given the opportunity before the hearing to examine at the PHA offices any documents the Complainant intends to present that are directly relevant to the hearing. The PHA must be allowed to copy such documents at its own expense. If the Complainant does not make a document available for examination by the PHA before the hearing at its request, the Complainant may not rely on the document at the hearing.
- G.** The hearing will be conducted informally by the Hearing Officer. The Hearing Officer will require that the PHA, the Complainant, and other participants or witnesses conduct themselves in an orderly fashion. Failure to comply with the directives of the Hearing Officer may result in expulsion from the proceeding. If the Complainant is expelled and there are no other representatives or witnesses, the decision of the Hearing Officer will be based on the evidence presented up to the time of the expulsion.
- H.** The Complainant or the PHA may arrange in advance for a transcript of the hearing, at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript.

- I. If the Complainant fails to appear at a scheduled hearing, the Hearing Officer may make a determination to postpone and reschedule the hearing or may make a determination that the Complainant has waived his or her right to a hearing.

## **V. Decision of the PHA Hearing Officer**

- A. The Hearing Officer will prepare a written decision within 10 calendar days after the hearing. A copy of the decision will be sent to the Complainant and to the PHA.
- B. The PHA shall abide by the decision of the Hearing Officer, provided that the decision is not contrary to applicable federal, state or local law, HUD regulations, or the requirements of the Annual Contributions Contract between HUD and the PHA or that the Hearing Officer is not acting in excess of his or her authority.
- C. A decision by the Hearing Officer in favor of the PHA, or which denies the relief requested by the Complainant in whole or in part, is not a waiver by the Complainant of the right of the Complainant to contest the PHA's determination in an appropriate judicial proceeding.