

## Illegal Utility Cut-offs by Landlords

"We are only tenants, and shortly the great Landlord will give us notice that our lease has expired."  
-- Joseph Jefferson, 19th century U.S. comic actor

About 30.1 percent of Tennesseans, or 794,000 Tennessee households, live in rented properties as of 2005.

Some of them, however, encounter a growing problem. Low-income renters are facing a significant rise in illegal utility cut-offs by landlords.

### **Q. Why would a landlord cut off a tenant's electricity, gas, or water?**

Most landlords never do this. But the few who do it usually want the tenant to move out right away, or are using harsh action to try to force payment of rent. In either case, it is illegal for landlords to use this tactic.

### **Q. Who pays for a tenant's utility bills - the tenant or the landlord?**

It depends on the terms of the lease agreement. It is perfectly legal for a landlord to require a tenant to sign up for utilities in the tenant's name. But, if the lease says that the landlord pays for utilities, or if utilities stay in the landlord's name, then it is illegal for a landlord to cut off a tenant's utilities.

### **Q. Can a landlord ever legally turn off a tenant's utilities?**

Yes, but only in larger counties in Tennessee where landlords and tenants have the benefit of the balanced law called the Uniform Residential Landlord Tenant Act (URLTA)

The URLTA allows utility cut-off on one condition: there must be a signed lease that requires the tenant to transfer the utilities into the tenant's name at the start of the lease. The tenant then has 10 days to have the utilities put in the tenant's name. If the tenant does not do so, then the landlord may legally cut off the utilities, but only after the 10 days have run and before the 45th day after the tenant occupies the rented dwelling.

Otherwise, it is generally illegal for a landlord to cut off tenants' utilities.

### **Q. What happens if the landlord illegally turns off a tenant's utilities?**

A landlord cut-off of utilities is not a criminal act, but is a civil law dispute. This means law enforcement officers do not have authority to handle these non-criminal matters.

When there is an illegal cut-off, the landlord may be held legally responsible for the tenant's damages. The landlord may have to pay for the tenant's substitute housing, spoiled food, and lost wages, plus attorney fees and court costs.

A utility cut-off by a landlord may also be a violation of the Tennessee Consumer Protection Act. If so, the landlord could end up owing the tenant triple damages plus court costs and attorney fees.

### **Q. What is the renter is late on paying rent?**

Even if rent is late, a landlord cannot legally cut off utilities. The landlord must first give the tenant a notice of eviction. If the tenant "detains" and does not move out (or catch up the rent), then the landlord may file a "detainer" action in general sessions court to obtain an order of possession. Landlords have strong rights, but tenants have a right to the "peaceful enjoyment" of their rented homes.

by Jim Hawkins, Managing Attorney, Gallatin office, Legal Aid Society

**Note:** This column is not intended to take the place of legal advice. All cases are different and need individual attention. Consult with a private attorney of your choice to review the facts and law specific to your case.

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