

Studierendenwerk Darmstadt - General Terms of Tenancy

01/04/2018

No liability will be accepted for any errors in the courtesy translations of the original German wording. The translations do NOT constitute integral parts of the Tenancy Agreement.

Preliminary remarks: In cases where gender-specific formulations are used in these tenancy conditions and the other parts of the Tenancy Agreement, all texts apply equally to both men and women.

I. Accommodation entitlement

- (1) The right to accommodation ensues from the Allocation Rules for Studierendenwerk Darmstadt residences. The Tenant is obliged to inform Studierendenwerk immediately if he is no longer entitled to accommodation (7.5 in the Allocation Rules).
- (2) The Tenant is also obliged to submit proof of registration, including his matriculation number, to the Landlord by 30.04. or 31.10. of each year, without being specifically requested to do so.

II. Premature termination by Landlord

- (1) In accordance with articles 543 and 569 of the German Civil Code, the Landlord may terminate the tenancy with immediate effect in writing for compelling reason before its official conclusion if:
 - a) the Tenant behaves in a manner which is deleterious to the declared purpose of the tenancy (accommodation for students);
 - b) the Tenant no longer has a right to accommodation under the Allocation Rules of the Landlord
 - c) the Landlord can no longer reasonably be expected to continue the tenancy due to substantial and/or repeated infringement of the Tenancy Agreement by the Tenant;
 - d) the Tenant, in contravention of IX (1) a – g, behaves or treats the accommodation rented to him in a manner which is contrary to the terms of the agreement.
- (2) The tenancy may be terminated under Paragraph 1 letter (c) if
 - a) the Tenant does not make the necessary payments, or does not pay on time;
 - b) the Tenant, in contravention of X (1) b), uses the accommodation in a manner which is contrary to the terms of the agreement, especially by granting third parties partial or full use of it;
 - c) the Tenant repeatedly disturbs the peace;
 - d) the Tenant does not arrange a direct debit, or cancels it;
 - e) the official confirmation of registration (Anmeldebestätigung) is not presented to the Landlord within one week of taking the accommodation.
 - f) the Tenant does not submit proof of registration, including his matriculation number (I (2), before the given deadline;



- g) the Tenant has extra keys made, or permits others to use his keys (X (1)d);
- h) de-registered vehicles are parked on the car park belonging to the residence (X (1)e).
- i) the Tenant does not fulfil the obligation set out in the House Regulations to keep all parts of the rented accommodation clean.

III. Maximum length of residence

- (1) The maximum length of residence per tenancy agreement is limited to 24 months.
- (2) The maximum total length of residence is four years (7.2 Allocation Rules).
- (3) The Tenant is obliged to inform the Landlord immediately if he is no longer entitled to accommodation (deletion from the university register). The Tenant must declare to Studierendenwerk in writing his or her deletion from the university register no later than the last working day (Monday to Friday) before the month in which the deregistration takes effect, and submit appropriate documentation. If insufficient notice is given, the tenancy shall not end until the end of the month after which the deregistration becomes effective.

IV. Exclusion of tacit extension

Article 545 of the German Civil Code (tacit extension of the tenancy on basis of continuing use) is excluded.

V. Payment of rent and default

- (1) The full monthly rent is collected in advance by SEPA direct debit mandate on the 6th day of each month in accordance with Article 2 of the Tenancy Agreement. The direct debit mandate should also cover any increases to the rent or the running costs. This should be submitted before conclusion of the Tenancy Agreement. If a direct debit withdrawal is not possible due to there being insufficient funds in the account, the Tenant shall cover any resulting costs. The Landlord shall also charge a fee of € 5. The Tenant is at liberty to provide proof that lower damages were incurred.
- (2) Payment of the rent by SEPA direct debit mandate represents a principal contractual obligation upon the Tenant.
- (3) Studierendenwerk operates on the cost recovery principle, accordingly it is entitled to increase the basic monthly rent if it transpires that costs have risen for the residence. 6 weeks' notice will be given before the adjustment comes into effect.
The increased basic rent is payable from the 1st of the month after which the Landlord has issued timely written notification. This does not affect the Landlord's right to adjust the basic rent through notice of termination pending a change of contract.
- (4) All the Landlord's expenses are covered through the monthly operating cost allowance under the terms of the German Regulation on Operating Costs (BetrKV). The Landlord is entitled to amend the operating cost allowance by giving at least 6 weeks' unilateral written notice if the actual costs incurred exceed the costs already

defrayed. If costs fall, the Landlord is entitled to reduce the operating cost allowance. The new fixed operating cost allowance will then be payable from the 1st of the month following timely notification.

VI. Administrative fee and validity of the Agreement

- (1) Payment of the administrative fee constitutes a prerequisite for concluding the Tenancy Agreement. The student shall be issued a fixed-term payment request along with the offer of accommodation. Only if this payment is received on time shall the Tenant receive the Tenancy Agreement. Once the tenancy agreement has been legally concluded, we will deduct the service fee from the rent amount stated in the tenancy agreement.
- (2) A further precondition for conclusion of the Tenancy Agreement is that it be signed by the Tenant within 10 calendar days of the scheduled start of the contractual period. The written Tenancy Agreement shall only be held for signing by the Tenant at the Studierendenwerk Darmstadt Accommodation Service until then. **The room will be reallocated once this deadline has passed.**

VII. Security deposit

- (1) In order to cover any claims submitted in the period after the tenancy has ended, especially those associated with excessive wear of the room and any subsequent ancillary costs, a deposit to the value of three basic rent payments is payable. The Landlord is not obligated to provide interest on the security deposit (§ 551, para. 3 p. 5 of the German Civil Code).
- (2) Once the Tenant has left the accommodation and returned it to Studierendenwerk Darmstadt, the Landlord is entitled to deduct any claims relating to the tenancy from the security deposit. The security deposit, or rather the remainder of the deposit not used to offset claims, shall be transferred to a bank account named by the Tenant. In the case of bank transfers to accounts held abroad, the Landlord is entitled to deduct any bank charges from the security deposit.
- (3) During the period of the tenancy, the Tenant is not entitled to deduct any claims against the Landlord from the security deposit.

VIII. Right of set-off and refusal of performance

- (1) The Tenant is only entitled to offset the rent claim or exercise a right of retention against a damages claim as defined in Article 536 of the German Civil Code (BGB) or claims arising from Article 539 of the BGB, or Article 812 (unjustified enrichment) of the BGB on account of having paid too much rent if he informs the Landlord in writing of his intention at least one month before the amount is due. The Tenant may only offset against other claims if these are undisputed or carry legal force. The Tenant may offset claims arising from Articles 536 and 812 of the BGB (reduction of rent) without any restrictions.
- (2) Otherwise the Tenant may only exercise a right of refusal of performance based on claims related to the tenancy.



IX. Deficiencies in the accommodation and damage caused by the Tenant

- (1) During the handover, the condition of the accommodation and the completeness of all items and furnishings in it shall be documented in a handover inspection report.
- (2) The Tenant should inform the Landlord immediately of any damage which occurs or is caused during the tenancy.
- (3) The Tenant is liable for any damage caused by him or his visitors, or by any hired craftsmen or suppliers. The same applies for damage to the accommodation caused by insufficient heating or ventilation. The Tenant cannot be held liable if the cause of the damage did not lie within his area of accountability.
- (4) Residents of corridor groups, flat shares and shared residential units carry joint liability for any non-accidental damage caused to the communally used inventory items and the communally used furnishings and electrical appliances during the period of tenancy. Each tenant must accept, for or against themselves, facts relating to the person or the behaviour of other legitimate users of the accommodation which affect the tenancy or are grounds for damages.

X. Improper use

- (1) The Tenant is not permitted
 - a) to keep animals, with the exception of appropriate numbers of small pets. This is only allowed assuming that no other parties are inconvenienced as a result. Other animals may only be kept with the prior consent of the Landlord or held on a temporary basis.

Consent may be refused or revoked taking into account the circumstances of each individual case, after weighing the interests of the contract parties and third parties, especially in cases where other residents or neighbours are disturbed by the animals or damage to the accommodation or the site of the residential complex is to be feared.
 - b) to grant exclusive or joint use of the rented accommodation to other persons without the written permission of the Landlord; granting full or partial use of the accommodation and its facilities to third parties is specifically prohibited. This includes receiving family members (spouse, children) for durations longer than short visits, unless the prior consent of the Landlord has been obtained in justified exceptional circumstances;
 - c) to leave objects in the rented rooms or on the premises after the end of the tenancy, unless the Landlord has exercised his landlord's lien on these objects;
 - d) to have keys made or to hand his keys to unauthorised parties;
 - e) to park de-registered vehicles on the car park belonging to the residence. In the event of violation, the Landlord is entitled to have the vehicles towed away. Any resulting costs shall be carried by the Tenant. The Landlord retains the right to press further damage claims;
 - f) to park vehicles outside the marked parking spaces, e.g. on drive ways and fire brigade access areas. In the event of violation, the Landlord is entitled to have the vehicle towed away.



- g) to carry out repair work on motor vehicles which could inconvenience others on the premises of the building managed by the Landlord. All work which could cause environmental damage (e.g. oil changes) is expressly forbidden;
- (2) Even if the Landlord does not admonish the Tenant for an instance of misuse, this shall not constitute tolerance of behaviour which is in breach of contract.

XI. Legal disclaimer

- (1) Except in the case of injury to life, limb or health, or breach of principal obligations under the Tenancy Agreement, the Landlord is only liable for damage to the property of the Tenant and his visitors, as well as to objects introduced by the Tenant (especially damage caused by dampness), only in the case of wilful intent or gross negligence on the part of the Landlord and his agents.
- (2) The no-fault liability of the Landlord for defects existing at the time of conclusion of the contract (warranty liability) is excluded. Article 536 a) paragraph 1 of the German Civil Code does not therefore apply.

XII. Other obligations upon the Tenant

- (1) The Tenant is responsible for keeping the the rented accommodation clean. He is committed to treating it and the communal rooms and corridors etc., the fittings and the outdoor facilities with due care and attention, and to ensuring that the rooms are sufficiently ventilated and heated, and protecting the water supply and drain pipes from freezing during the winter. He is also obliged to keep the rented accommodated free from pests. In the event of damage, the burden of proof lies with the Tenant to prove that he is not responsible for such damage.
- (2) The Tenant undertakes to observe the current House Regulations.
- (3) As a member of a residential and/or corridor group, the Tenant is obliged to ensure that the rooms used by himself and his co-tenants and also the communal rooms are supplied with electricity, power, heating etc. if he is the sole owner of the connections or contract partner of the utility company.
- (4) The Tenant is obliged to keep the keys to the rented or communally used rooms secure, to prevent unauthorised persons from gaining access to them and to inform the Landlord immediately of the loss of any keys. If necessary, the Landlord is entitled to replace the entire locking system including all corresponding keys and to take any necessary interim protective measures (e.g. emergency locks, surveillance), at the expense of the Tenant, unless the Tenant can prove that no misuse of the lost key is to be feared. The Landlord would like to emphasise that very high costs can arise, as it may prove necessary to replace the locking system of the entire property. The Tenant is advised to take out appropriate insurance.
- (5) The Tenant has no entitlement to duplicate or additional keys.
- (6) At the end of the tenancy, the Tenant must remove his vehicles from the premises. If this is not done, the Landlord is entitled to have the Tenant's vehicles towed away, scrapped or otherwise disposed of. The Tenant



will be asked to reimburse any costs which are incurred for this. The Landlord is entitled to any proceeds arising from the disposal, minus the Tenant's costs.

XIII. Decorative repairs

- (1) The Landlord is not obliged to carry out decorative repairs in the rented accommodation. During the tenancy period and afterwards, up to the official handback of the rented accommodation, the Tenant undertakes to perform, properly and to a professional standard, any decorative work on the rented accommodation at his own expense or to have such work carried out by a third party, if and to the extent that the repairs are made necessary as a consequence of the tenancy and any resulting wear. Decorative repairs include wallpapering or painting walls and ceilings, painting the radiators including the heating pipes, the interior doors, the inside windows and the inside of the external doors, and painting the floors or carrying out basic cleaning (e.g. shampooing of carpets, use of a detergent followed by application of a protective emulsion for parquet flooring) on other types of flooring. The Tenant is not obliged, either during the tenancy or after its conclusion, to perform regular decorative repairs if these are not necessary. If the Tenant does not comply with the above obligations, the Landlord is entitled, after setting a reasonable grace period, to have the necessary work carried out at the Tenant's expense.
- (2) The Tenant has no entitlement to withhold part of the rent if he is aware that the accommodation needs to be redecorated but takes the room anyway.

XIV. Access to the rented rooms by the Landlord, toleration of building work

- (1) The Landlord, or a person appointed by him, is entitled - after giving prior notice - to enter the rented rooms to ascertain the degree of decoration and renovation work required, the condition of the accommodation, any damage, defects or structural work, and to read meters.
- (2) In exigent circumstances the Landlord, or a person appointed by him, has the right to enter the rented rooms during the Tenant's absence without giving prior notice.
- (3) During longer periods of absence the Tenant must ensure that the Landlord or his representative is able to enter the rented accommodation in the circumstances given in paragraphs 1 and 2.
- (4) If the Tenant refuses or impedes entry, or otherwise makes entry impossible, he shall be liable for any resulting damage.
- (5) In line with articles 555 a and 555 b of the German Civil Code, the Tenant must tolerate any improvement, building and energy efficiency optimisation work necessary for maintaining the building and the rented rooms, for preventing a potential threat or for repairing damage.

XV. Handover of accommodation, final day of tenancy and return of accommodation

- (1) If the Agreement begins on a Saturday, Sunday, or a public holiday, the handover of the accommodation to the Tenant shall take place at the earliest on the working day following the start of the tenancy (Monday-Thursday between 9:00 and 17:00, and Friday between 9:00 and 15:00). The first month's rent shall not be reduced as a result.
- (2) The contractual relationship ends on the last day of the tenancy, both if the Agreement has run its full course or if it is terminated prematurely. If the last day is a Saturday, Sunday or a public holiday, the contractual relationship shall end on the last working day of the last week of the tenancy. This does not include termination of the Tenancy Agreement with immediate effect.
- (3) If the Tenant returns the accommodation before the end of the agreed tenancy period, he shall not receive any financial compensation.
- (4) Before the end of the tenancy, the Tenant is obliged to return the rented rooms to a condition in which a subsequent tenancy is immediately possible.

The Tenant is not obliged to rectify the consequences of normal contractually agreed usage. The Tenant has the following specific obligations:

- a) If the Tenant has made structural alterations to the rented accommodation with the consent of the Landlord, he should restore them, adequately and appropriately, to their original state.
 - b) The Tenant is responsible for rectifying, adequately and appropriately, any damage and deficiencies in the rented accommodation (including any rented furnishings and fittings) for which he himself is responsible.
 - c) Any rented furnishings and fittings removed by the Tenant must be returned to the premises in their original condition.
 - d) The Tenant must remove all his personal belongings from the rented accommodation and all other communally used areas.
 - e) The accommodation must be thoroughly cleaned; this includes especially the floors, furnishings, bathroom, kitchen and window panes and frames, inside and outside.
 - f) If an accommodation unit is used by several tenants and one tenant leaves the unit, the communal rooms, furnishings, electrical appliances and window panes and frames must also be thoroughly cleaned
- (5) The rented accommodation must be returned in the period from Monday-Thursday between 9:00 and 17:00 and on Friday between 9:00 and 15:00. The Tenant must:
 - a) hand back the room, including the rented furnishings and all keys, to the relevant local accommodation service.
 - b) give his new address and provide the bank account details required for refunding the security deposit and any other credit.



- c) After giving notice and setting a suitable deadline, the Landlord is entitled to remove any of the Tenant's property which the latter, in contravention of his obligations, has left behind after returning the room. This also applies if the Tenant, in contravention of his obligation (XV (5) b), does not inform the Landlord of his new address. The Landlord is entitled to destroy any objects which are of no appreciable value. Objects held by the Landlord shall become his property after one year. The Landlord is only liable for any loss in the case of gross negligence or wilful intent; under no circumstances is he obliged to take out insurance protection for the objects or to undertake security measures above and beyond those already arranged for his own property. The Tenant must compensate the Landlord for any costs which arise due to the Tenant's not removing all belongings from the accommodation. In exercising his landlord's lien, the Landlord may refuse to return the security deposit until this and any other claims arising from the tenancy have been settled.

XVI Declarations

Any declarations issued by the Tenant regarding the tenancy must be made in writing for them to be valid.

XVII. Non-validity of individual Tenancy Agreement provisions

Should individual provisions of the Tenancy Agreement and/or its annexes or these tenancy conditions prove invalid, or become so in the future, this shall not affect the validity of the remaining provisions.

XVIII. Other provisions

- (1) In residences in which no individual electricity meters are fitted, electricity costs shall be divided amongst the tenants based on the number of rooms.
- (2) Tenants in the "Karlshof" Alfred-Messel-Weg 4-10D residence are aware that the communal "Treffpunkt" room can cause inconvenience in the form of noise and/or odours. Tenants have no entitlement to withhold part of the rent or to press other claims as a result of this.
- (3) Use of the communal rooms may be temporarily withdrawn if it is necessary to provide emergency accommodation.
- (4) The Tenant consents to all personal data required for administration of the tenancy being saved and processed electronically by the Landlord.

XIX. Consumer rights

- (1) We are neither willing nor obliged to participate in a dispute settlement procedure before a consumer-arbitration service pursuant to the Consumer Dispute Resolution Act (VSBG).



- (2) However, the Consumer Dispute Resolution Act requires that we notify you of the relevant consumer arbitration service:

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