

“In-kind” Rent or “Sweat Equity”

Some landlords may offer a reduction in rent in exchange for labor. Others may offer the tenant a job in exchange for rent-free housing. Each of these instances has significant risks to both the tenant and the landlord.

The landlord who reduces the rent in exchange for labor or offers the tenant a job in exchange for rent-free housing runs the risk of being an employer and of violating Oregon’s labor laws. Among other things, these laws require the employer to provide employees with regular paychecks and to withhold specific amounts for federal and state withholding. While a landlord may attempt to avoid becoming an employer by claiming the tenant is an independent contractor, the legal definition of an independent contractor is very strict. A landlord who wants to negotiate with a tenant in a labor/rent exchange would be well advised to seek independent legal advice.

The tenant who participates in a labor/rent exchange or who becomes an employee in exchange for rent free housing runs the risk of losing the protections of the Oregon Residential Landlord-Tenant laws. An employee who lives in employer provided housing on the premises where work is to be conducted is probably not a tenant. Such a person may be evicted with only a 24 hour written notice.

For more information, see www.oregonlawhelp.org or www.boli.state.or.us