

Repair Issues

Every landlord is required to keep its rental properties in good repair. This article provides an overview of how you can proceed if your landlord fails to meet his/her obligations and you need to force his/her to make repairs or provide services.

Your rights

Your landlord is obligated to provide basic services such as heat, hot water, extermination, janitorial service, and adequate lighting. Under New York State's "warranty of habitability," landlords must maintain properties so that there are no conditions dangerous to life, health and safety. Based on this warranty, all tenants are eligible to seek repairs and rent abatements for service and maintenance violations that affect their apartments.

First Steps

First, you should contact the landlord about the problem with your unit. You must follow up with a letter describing the situation, and send it via certified mail and request a return receipt. It is extremely important to keep detailed records of the problem and how you have attempted to get critical repairs made. You should also take photos of any and all problems and write down the dates.

HP proceeding in Housing Court

If your landlord does not make the necessary repairs, you can initiate a Housing Part (HP) proceeding, through which you can get a New York court to order the landlord to make repairs. To begin an HP action in Queens, you should go to the Queens Housing Court and file an HP action. (For other boroughs, visit <http://www.courts.state.ny.us/courts/nyc/housing/locations2.shtml>.)

You will pay a \$45 fee or fill out a "poor person's" application to waive this fee, and then fill out some paperwork to begin this lawsuit. When you appear in court on the scheduled date, you should bring all of your records to show the judge and the HPD lawyer. The judge may ask you to settle with the landlord or issue a court order requiring the landlord to make repairs. Particularly serious conditions will have to be fixed within 24 hours, "hazardous" conditions must be fixed within 1 month; and all other non-hazardous conditions must be fixed within 90 days. Dates for the repairs will be picked in court, and will be written in a court order or in a settlement.

If the judge orders your landlord to make repairs, after the court date, you should continue to keep updated records of the situation. If the landlord refuses to comply with the court order or with the terms of the settlement, the judge may make him responsible for civil penalties (fines) or hold him in contempt of court.

DHCR complaints (for rent-controlled & rent-stabilized tenants)

If you are a rent-controlled & rent-stabilized tenant, you can file a complaint with the Division of Housing and Community Renewal (DHCR) after you send the letter to your landlord. For a problem with your apartment, you should complete an "Individual Tenant Statement of Complaint of Decrease in Services" form (available at <http://www.dhcr.state.ny.us/Forms/Rent/>).

If you have a complaint about a problem affecting the common areas of your building or building-wide services, fill out a “Statement of Complaint of a Decrease in Building-Wide Services” form (DHCR Form RA-84).

Mail the completed form along to the DHCR along with a copy of the letter to your landlord (with the return receipt or other proof of mailing/delivery) within 10 to 60 days from the date you wrote and sent the letter to your landlord. DHCR will process your complaint and follow up with your landlord. DHCR may also ask you to respond (if your landlord provides an answer) or schedule an inspection. DHCR has the authority to order your landlord owner to make repairs and/or reduce the rent for the apartment, but it will only force the landlord to resolve the problems you noted in the letter to the landlord.

Emergencies

If the problem you have is serious – for instance, you lack heat or hot water or have major water leaks or sewage problems, you can report the emergency to the City. For example, currently, if the outside temperature is below 55 degrees, the inside temperature of an apartment is required to be at least 68 degrees, between the hours of 6am and 10pm. Between the hours between 10pm and 6am, if the outside temperature is below 40 degrees, the inside temperature should be at least 55 degrees. Call the City Emergency Repair Unit at 311, and ask for an inspector to come to your apartment as soon as possible. If other tenants are having a similar problem, ask them to make a call; this will expedite your request. After the inspector visits, if the problem is serious enough the City may decide to do the repair work and bill the landlord directly.

Withholding your rent

You do have the option to withhold your rent in order to force your landlord to act. This is a risky move because your landlord may begin eviction proceedings against you. If you do withhold your rent, make sure to set aside the rental payment. If your landlord takes you to court, you can show the court you have the funds to cover the missed month(s) of rent and tell the judge about the issues with your apartment and the landlord’s failure to resolve them. The judge may order the landlord to make repairs or give you a rent abatement (a reduction in rent). Unfortunately, there is always a chance that you may be required to pay all your rent even if you need repairs; if you do not have it, you will be evicted.

The MinKwon Center for Community Action’s Housing Clinic provides free consultation to tenants (in English, Korean, and Chinese) regarding their housing problems every Tuesday from 11 am to 4 pm. If you have any housing questions or problems, please contact 718-460-5600 and make an appointment.