

Repairing Your Apartment and Deducting It from Your Rent

What can I do if my landlord refuses to make repairs to my apartment?

If your landlord refuses to make repairs in your apartment, you can make the repairs yourself and deduct the cost from your rent. Because your landlord may attempt to evict you for not paying the rent, **YOU SHOULD TALK TO A LAWYER BEFORE YOU TAKE THIS STEP.** If you have a written rental or lease agreement, you should have it reviewed by an attorney before you decide to deduct money from your rent. Some agreements don't allow you to use rent money for making necessary repairs. If you receive a federal rent subsidy through the Housing Choice Voucher Program (Section 8), you cannot use your rent money to make repairs (see below).

What should I do first?

1. If the problem in your home is serious but not a safety issue or an emergency, you should tell your landlord about the problem and give your landlord a chance to fix it. Do this with a letter, email, or text message, and remember to keep copies of anything you send.

You also can call the building inspector or the health inspector and ask for an inspection. Get copies of the inspection report, so that you will have proof of what repairs need to be made. Write a letter, email, or text message to your landlord saying that you intend to make the repairs and deduct the cost from the rent if the problem is not resolved within a reasonable time. Keep a copy of anything you send. Get two or three written estimates of the repair cost from reputable services or repair companies. Use the cheapest one. Save all of your receipts and estimates.

2. If the problem is safety issue or an emergency, such as no heat or water, you should try to contact your landlord first. If you are unable to reach your landlord or if your landlord refuses to make the repairs, you may contact a reputable service or repair company to correct the problem. If time permits, get 2 or 3 estimates before you have the repairs made. Also, if time permits, call the building or health inspector before the repair is made. Request copies of their reports so that you will have additional proof that something was wrong.

When the repair service comes, get a detailed receipt from the person who does the repair work that explains what the problem was, the steps taken to correct it, and the total charge. Send your landlord a copy of the receipt. If your landlord does not reimburse you for the repair cost, you may be able to deduct the cost from your rent.

I receive Housing Choice Voucher (Section 8) benefits. Can I make repairs and deduct the cost of the repairs from the rent?

If you are a Housing Choice Voucher (Section 8) program participant, you should call your Section 8 program and talk to your case manager about the repairs that need to be made in your apartment. The Housing Choice Voucher program will send out an inspector and may stop paying their portion of the

rent if your landlord does not make the repairs in a timely manner. You should continue to pay your share of the rent or you may risk losing your Housing Choice Voucher (Section 8) benefits.

What can happen after I have deducted the repair cost from the rent?

Your landlord may try to evict you for non-payment of rent. It will be important to have copies of letters, receipts, etc. to show the judge that the repairs were necessary and fairly priced.

What should I do if I get a court petition?

Never ignore legal or court papers. You can call the **Western New York Eviction Prevention Hotline** at **844-230-7376** to get referred to a free lawyer.

What should I do at the hearing?

Present your case in a clear and concise manner. Show the judge copies of your communications with the landlord, estimates, inspection reports, photographs, receipts, and any other supporting evidence you may have. You can bring witnesses to tell the judge what they saw in your apartment, too. Remember, the judge's decision will be based upon the information presented at the hearing.

Will the judge make a decision the same day?

Usually the judge will tell you at the end of the hearing if you had good reason for deducting the repair cost from the rent. If the judge decides you did not have good reason, you may be ordered to pay the balance of the rent, often immediately in court. You should ask the judge how soon you must pay. If you do not have the money or you refuse to pay it, you may be evicted from your apartment.