

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 LEGAL REPRESENTATIVE BEFORE YOU TAKE THIS STEP. If you have a written lease agreement, you should have your lease reviewed by an attorney before you decide to deduct money from your rent. Some leases may prohibit using rent money for making necessary repairs. If you receive a federal rent subsidy through the Housing Choice Voucher Program, 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 and remember to keep copies of any letters 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 to your landlord saying that you intend to make the repairs and deduct the cost of doing so from the rent if the problem is not resolved within a reasonable time. Keep a copy of your letter. Get two or three written estimates of the cost for the repair. Use the cheapest one. Save all of your receipts and estimates.

2. If the problem requires immediate attention, such as no heat or water, you should attempt 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. 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.

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.

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

No. If you are a Housing Choice Voucher (Section 8) program participant, you should call your Section 8 program (e.g. Belmont, Rental Assistance Corp. or BMHA) 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 must 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. Contact Neighborhood Legal Services at (716) 847-0650 or your local legal service agency immediately. If you are unable to obtain legal representation, you should appear at the hearing, ready to have the judge decide if your actions were proper.

What should I do at the hearing?

Present your case in a clear and concise manner. Show the judge copies of your letters, estimates, inspection reports, photographs, witnesses, receipts and any other supporting evidence you may have. 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.