

How to Get Repairs (Part 2)

A Fact Sheet for Tenants On Filing Complaints for Lack of Services or Repairs

Landlords are required by state and city laws and regulations to maintain essential services and make repairs. If your landlord is not providing services or making repairs, you can complain to government agencies. (You must first ask for the repairs in writing if the problem is not an emergency—see part 1 of this fact sheet for sample letters.) In addition to filing complaints with government agencies, you can take your landlord to court, or you can withhold your rent and force your landlord to take you to court. **This fact sheet outlines the second step: filing complaints with government agencies.**

The city and state have agencies that record violations against landlords for either not making repairs or not providing services. Some agencies will also take landlords to court for not correcting violations. On the reverse side of this fact sheet you will find a list of agencies and what they do. Below are some points to consider before filing complaints.

- **Have you notified the landlord? How serious is the condition? How long should the landlord take to respond?** If the landlord failed to fix things after tenants called and wrote letters, you should take the next step of filing complaints with government agencies. For non-emergency problems, it is very important to notify the landlord first (see How to Get Repairs Step 1). Make sure you have given the landlord a reasonable amount of time to make the repair.
- **Landlords are responsible for maintaining essential services (heat, hot water, security, plumbing, extermination, etc.) and making repairs to the appliances and the parts of the apartment provided by the landlord.** Tenants will **not be able** to use agencies to help with: noisy neighbors, problems that existed in the past but have now been fixed, damage to personal property (curtains or rugs damaged by leaks, etc.) or services that are not required but are provided by the landlord as an amenity.
- **New York City does not have an automatic repair and deduct procedure.** This means you cannot replace the broken item or pay for the missing service, and deduct the cost from the rent without risking a housing court non-payment case. While withholding rent is sometimes necessary, it can lead to eviction and will lead to getting your name on the list of tenant-screening bureaus. Tenants should get expert advice before withholding rent.
- **If you have a serious condition** (no heat, no hot water, or a bad leak, for example), try to contact the landlord and then call 311 right away—you do not have to prove that you contacted the landlord before calling 311.
- **If the situation warrants immediate action** (a cascading flood, a gas leak, carbon monoxide alarms sounding, etc), call 911, the city's emergency response, which will get you the fire department, the police, or an ambulance.

For more detailed information about your rights as a tenant, or for assistance in organizing a tenants' association:

METROPOLITAN COUNCIL ON HOUSING

339 Lafayette Street, New York, NY 10012 • www.metcouncil.net

Tenant Hotline: 212-979-0611 (Mondays, Wednesdays and Fridays 1:30-5:00 p.m.)

Free Tenant Clinic: Tuesdays 6:30 p.m., Cooper Square 61 East 4th Street (between Bowery & 2nd Ave.)

Over, please

Filing complaints with the City of New York

Tenants can call 311 (from outside NYC call 212-NEW-YORK or 212-639-9675) to file complaints with city agencies. The ones most useful to tenants are:

- Housing, Preservation and Development (HPD) which enforces the laws relating to housing maintenance (heat, hot water, lead paint, leaky ceilings, other apartment deficiencies)
- Department of Health & Mental Hygiene (DOH) which deals with lead poisoning prevention (together with HPD), child window guard requirements, rodent and pest infestations, and some mold and asbestos conditions.
- Department of Buildings (DOB) which issues permits to landlords and developers for new buildings and alterations, inspects elevators, plumbing, and electrical systems, and responds to complaints about unsafe structures.
- Department of Environmental Protection (DEP) which is responsible for complaints about noise and odors (produced by businesses such as restaurants and clubs).

The city responds to a tenant's housing complaints by notifying the landlord, and then calling the tenant to see if the problem was solved. An inspector might be sent to the building, and a violation placed if the inspector sees the problem. You can see violations at HPDOnline, found via nyc.gov, the city's website. In theory, the city levies fines against landlords for violations not fixed. **You must follow-up after filing complaints with city agencies.** (The Dept of Buildings is particularly bad at responding.) Always ask for and get **the complaint number**. Call a local elected official to help with follow up—try your city councilmember, state assembly member or senator, the borough president, and the office of the public advocate. When calling 311 about a building-wide condition, get all the tenants in the building to call every day until the problem is fixed. HPD has the option of using its own emergency repair system to fix things.

Filing a Complaint with the NY State Division of Housing & Community Renewal (DHCR)

If you are a rent stabilized or rent controlled apartment, hotel or loft tenant, you can file a complaint with the NYS DHCR. The DHCR supervises the rent regulation system, and has the power to order a rent reduction and rent freeze for your apartment until the landlord fixes the problem.

If it is an emergency situation (heat or hot water), you can file either the individual apartment or building wide complaint with a copy of the violation report form. For all other complaints, you must first write a letter to the landlord complaining about the problem (see How to Get Repairs Part 1) and send the letter by certified mail, return receipt requested. Once you have done that, you can file the complaint at least 10 days after the letter was sent and no more than 60 days. In the letter and on the forms, be specific in identifying the problem. For example: Kitchen: no heat, or Bedroom: broken window, north wall.

Use these forms from the DHCR (call them at 718-739-6400 or go to dhcr.state.ny.us/ora/ora.htm):

Application for a Rent Reduction Based Upon Decreased Services—Individual Apartment (RA 81)

Application for a Rent Reduction Based Upon Decreased Building-Wide Services (RA-84)

There are also instructions on the agency website on how to file these forms.

Note: Throughout the process, tenants should keep a log of the problems (dates on which there was no heat, for example), complaints made, letters written, and conversations with the landlord or his agent. The next step, taking the landlord to court, requires good documentation. If you and other tenants receive a rent reduction from the DHCR, make sure you save the money until the owner has had a chance to appeal in case the order is overturned, and make sure you answer all of the landlords' claims that repairs have been made. Fighting the DHCR or HPD can turn into an additional battle, and tenants should contact a local tenant or housing organization, or get in touch with Met Council (see reverse) for help.