

Getting repairs to your apartment or house

There are many ways to get your landlord to make necessary repairs or deal with the problem yourself if that does not work. Most landlords will respond to maintenance requests and have a procedure for making sure repairs are made timely. When they do not respond to your reasonable requests, you should consider all your options.

Warranty of Habitability

The “warranty of habitability” is a guarantee that the landlord must provide safe and sanitary conditions in the rental unit. It is implied by law into every residential lease. It does not mean that the housing was inspected and/or approved to meet local housing standards. It just means that if the landlord does not provide basic conditions to ensure that the place is safe and sanitary, the landlord can be held responsible.

The landlord must provide drinkable water, heat, a working sewer system, a working electrical system, a working smoke detector, a working lock for your outside door, a place not infested with insects and/or rodents, and a safe structure both inside and outside the home. While it may be a tenant’s responsibility to pay for certain utilities, for example, the landlord must make sure the wires and pipes are in good working order.

Complain to local Code Enforcement or Health Bureau

Many areas have local Code Enforcement Officers and/or Health Inspectors whose job it is to make sure that landlords meet the requirements of the building codes. Some municipalities require the landlord to obtain a certificate of occupancy before a property is leased, which may have included an inspection. If your landlord is not providing a safe and sanitary place, then you should call your local Code Enforcement Office or Health Inspector. In rural areas, contact the township or municipal office for the name of the housing officer or Pennsylvania agency responsible for inspection of residential property.

Repair and Deduct

Repair and Deduct may be a good solution for you if:

- You don’t want to move,
- Your problem is something specific that a repair person can fix, and
- The repairs will cost less than what you pay for your monthly rent.

If you have already called or texted the landlord about the repair, but gotten no response, you must write to your landlord about the conditions that need to be repaired. **Do not skip this step** — you must put it in writing so that the landlord is aware of the situation, even if you’ve already talked about it many times.

- Be brief but detailed about the problem — explain how it affects your family’s home, health, safety or cleanliness. If you can, also take pictures and/or videos of the problem.
- Always keep copies of all your letters.
- Give your landlord a reasonable time to do the repairs.

If the landlord doesn’t respond to your request, call around and get about three written estimates of how much the repairs will cost. Write the landlord again and let the landlord know that you plan to get it fixed yourself and to subtract the cost from your rent. Choose the most reasonably priced company. Remember, you can only use the repair and deduct option if you can pay for the repairs yourself and they cost less than a month’s rent.

Before you get the repairs done, take pictures or video and make sure that other people have seen the problem and its effects. You want to have proof that the problem was serious in case you need to go to court. In addition, it would be helpful to ask the repair people to describe the problems in their written estimates or receipts.

When you get the repairs done, get a receipt. Then, when it is time to pay rent, write to your landlord again to tell them that you got the repairs done and how much money you spent. Give your landlord a copy of your receipt and subtract the amount you paid for repairs from your usual rent amount. Pay your landlord the difference for your next month's rent. **Important: only spend the money on the repairs**, not on anything else. The next month you must go back to paying your usual amount.

Withholding Rent

Withholding rent may be appropriate for you only if:

- you cannot afford to pay for the repairs, and
- your problems are so serious that your home is uninhabitable.

But be careful, withholding the rent is often not the most appropriate choice and many courts do not look favorably on it. While you are withholding rent you should be looking for another place to live, because the landlord may then try to evict you for nonpayment of rent.

Examples of what would not be appropriate problems for withholding rent are torn carpeting, leaky faucets, toilets that won't stop running, cracked walls, or a small or minor amount of insects or rodents. Examples of what may be appropriate are no hot water, no heat in the winter, dangerous conditions in the structure of your home, a seriously malfunctioning sewage system, or a serious infestation of rodents or insects

The safest way to withhold rent to try to get the landlord to improve conditions is to put the rent money into a separate bank account from your other funds. This way, if your landlord tries to evict you or sue you for the money, you can prove to the court that you were not using the money for another purpose.

- The first step in this process would be to write to your landlord to tell them about your problem(s) and ask your landlord to fix it. Do not skip this step— you must tell your landlord in writing, even if you've already told them before about the problem.
- Be detailed about the problem— explain how seriously it affects your family's home, life, health, safety, cleanliness, etc. If you can, also take pictures of the problem.
- Always keep copies of all your letters.
- Give your landlord a reasonable time to do the repairs.
- If no repairs are made, write the landlord again. Tell the landlord that because he has not fixed your problem, your home is uninhabitable and, therefore, you intend to withhold your rent.
- Do not spend the rent money. Put the money into a separate account. You can ask your local bank how to do this. This way, if your landlord takes you to court and wins a judgment against you for nonpayment of rent, you will have the money to pay it back.

Move out

If a landlord does not provide certain things for you that cause a serious problem, such as a working sewer system, heat in cold weather, or drinkable water, the landlord may be violating the "warranty of habitability." In these situations, you have the right to end your lease and move out.

- Do not just leave. If you plan to move out, you should first write to your landlord to briefly explain the problems. Ask that the problems be fixed within a reasonable period of time. Try to be brief, but include some details of the problem. For example,
 - "Since the neighbor moved out two months ago, we have seen an infestation of cockroaches. We have asked you to call an exterminator, but you have not done so. My child's doctor says this may be what is making her asthma worse."

➤ “None of the radiators are working on the second floor. Because of that it is very cold and uncomfortable. We are afraid the pipes will freeze.”

- Set a reasonable deadline for the repair. Keep a copy of your letter.

If the landlord does not fix the problems within a reasonable time, plan your move.

When you know when you will be moving out, write to your landlord again to tell him that he has violated the warranty of habitability because the landlord did not fix these problems and, as a result, you are moving out. You may also want to request your security deposit back and some back rent for the time the conditions were bad.

Send or deliver the letter when you know you are moving out. Always take pictures to show that you have not left behind trash or damaged the home. Also take pictures of the conditions you complained about, if possible.

Lawsuit for damages

Suing for damages may be a good solution for you if you've already spent your own money to get things repaired, or if you're moving out and think you deserve some rent back because the home had serious problems. You can sue whether you are staying in the home or moving out, although it's usually difficult while you are still a tenant.

Before bringing this kind of lawsuit, you should make sure that you've notified the landlord of the problems in writing, and given a reasonable chance to make the repairs. You may also bring the complaint as a “cross complaint” if the landlord files for eviction.

Pennsylvania's “small claims court” is the Magisterial District Court and cases are heard by the Magisterial District Judge (MDJ). MDJs hear landlord tenant cases and civil complaints. There are standard “complaint forms” available at the local office or on the Administrative Office of Pennsylvania Courts (AOPC) website at www.pacourts.us.

In this complaint, you can ask for money damages. For example, you can ask for the amount of money you've spent to repair the problem or to make your place more livable. You might want to ask for a refund for part or all of the rent you paid during the time period when the problem made your home uninhabitable. If your utility bills were unusually high because of the problem, you could ask that the landlord be charged the difference.

If your property was damaged or destroyed because of the bad conditions (spoiled food, damaged clothing, or furniture), include the reasonable value of the items in your complaint. You would have to show that the landlord knew about the need for the repair and failed to take necessary action.

You will have to bring evidence, such as photographs. It is best if you print out pictures that are on your cellphone or camera. It would also be helpful for other people who have seen the bad conditions to come to your hearing and testify for you. If the local Code Enforcement inspector ordered repairs and the landlord failed to comply, ask the inspector to testify at the hearing and bring any notices sent to you and the landlord. If they need a subpoena, the MDJ can issue one upon request of a party to the lawsuit.

You will need to prove that these problems were your landlord's fault or responsibility and that the landlord didn't fix the problems within a reasonable time after you told the landlord about them. Bring to court all receipts for your expenses, back rent, utility bills, and for anything else you are asking the MDJ to reimburse you for having to deal with this problem.

Court order - specific performance

“Specific performance,” in these situations, means getting a court to order a landlord to make necessary repairs to an apartment. This sounds like a great solution, but unfortunately it's very difficult to get a court to look over a landlord's shoulder and make sure he does something he may not want to do. As a result, courts will most often choose not to do this. Specific performance is something that must be ordered by a Common Pleas Court, not the Magisterial District Judge. As a result, you should contact a lawyer if you have questions about whether this is possible in your case.

Combination of remedies

Any one of the previous remedies, by itself, may not be totally suitable for you. Your situation may allow you to use a combination of different remedies.

Suppose, for example, that for the past 2 months you have paid the full rent but you have not had hot water. You have told the landlord about it, but he has not made the repairs in a reasonable length of time. In the meantime, you have found another place to live and plan to move there next month. What can you do? You may choose to:

- request that a part of the past 2 months' rent be returned to you;
- pay your landlord a reduced amount of this month's rent; and
- move out next month without being responsible for future rent to your present landlord.

You should be aware that none of these options are perfect or easy winners. Any of them could cause your landlord to try to evict you before your next home is ready. However, if your landlord is truly not providing you with safe, sanitary conditions, it is unlawful to evict you for complaining to Code Enforcement or seeking necessary repairs.

*This handout contains a general statement of the law and should be used only as a guide.
It should not be considered legal advice because everyone's case is different.
The complete Self-Help Handbook for Tenants is available in electronic format
at <http://www.northpennlegal.org> in our Resources Section.
NPLS videos on rental housing are available on our website and at many area libraries.*