


HOW TO GET YOUR LANDLORD TO MAKE REPAIRS

CODE ENFORCEMENT
FOR TENANTS:
SELF-ADVOCACY
INFORMATION
PACKET

A stylized, grey-toned illustration of a house with a gabled roof, a chimney on the right side, and two windows. The house is centered behind the main title text.

Oakland/Berkeley: (800) 806-8111
San Francisco: (415) 782-8903
www.rentersrights.info

If you are a tenant, you have a right to decent housing. Even if you moved into the property while it was in a bad condition, as long as you are living there you have a right to demand that it be brought up to code.

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INTRODUCTION

The packet was prepared by the Repair and Deduct Project. Laura Lane of the East Bay Community Law Center was the primary author. We are a collaboration of the East Bay Community Law Center, Housing Rights, Inc. and many other organizations, and individuals. Our purposes are many. They include:

- Teach tenants about the steps they can take to get their landlord to make repairs.
- Discourage tenants from taking steps which may hurt them such as withholding rent in the mistaken belief that if the landlord isn't meeting his responsibility to keep the rental unit up to code then the tenant doesn't have to pay the rent.
- Teach tenants about the difference between cosmetic repairs and making repairs to bring a rental unit up to code.
- Provide tenants with legal back-up if an apartment owner (landlord) attempts to evict a tenant, who follows the steps outlined in the packet in the exercise of their rights.

Please let us know if this packet is useful to you. We also encourage feedback. Give us a call at 1800-806-8111 or write to us at Housing Rights, Inc. P.O. Box 12895, Berkeley, CA. 94712. You may contact the East Bay Community Law Center at 510-548-4040 and Housing Rights, Inc. at 510-548-8776 if you have questions or need help.

Before you contact your landlord, be aware of your duties and rights.

Landlord and Tenant **OBLIGATIONS**

See California Civil Code Section 1941.1

Landlord Obligations:

The landlord is required to keep the unit habitable. To be habitable, a rental unit must have all of the following:

- ☑ Effective waterproofing and weather protection of the roof and exterior walls, including unbroken windows and doors.
- ☑ Plumbing, electricity, and gas facilities in good working order.
- ☑ A system that produces hot and cold running water and a sewage disposal system maintained in good working order.
- ☑ Adequate, safe and functional heating facilities.
- ☑ Electrical lighting, with wiring and electrical equipment which is maintained in good working order. Working electrical outlets in each room.
- ☑ Floors, stairways and railings maintained in good repair.
- ☑ An adequate number of containers for garbage, kept clean and in good repair.
- ☑ Building and grounds which are in every part clean, sanitary, and free of rubbish, garbage, rodents, and other pests.
- ☑ A working toilet, washbasin, and bathtub or shower, in a room which is ventilated.
- ☑ Operable dead bolt lock on each main swinging entry door.
- ☑ One useable telephone jack and the wiring to it.

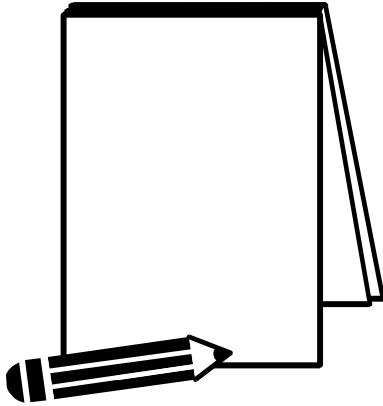
Tenant Obligations:

A tenant must take reasonable care of the rented property and is responsible for repairing any damage caused by the tenant, the tenant's guests, children, or pets. In addition, the tenant must do all of the following:

- ☑ Keep the premises as clean and sanitary as the condition of the premises permits.
- ☑ Use the gas, electrical, and plumbing fixtures properly.
- ☑ Dispose of trash and garbage in a clean and sanitary manner.
- ☑ Not destroy, damage or deface the premises, or allow anyone else to do so.
- ☑ Not alter or remove any part of the rental unit, appliances, or any structure on the rented property, or allow anyone else to do so.
- ☑ Promptly inform the landlord if repairs are needed.
- ☑ Allow the landlord or his workers access to the unit to make repairs when repairs are necessary, upon 24-hours notice and during reasonable business hours.

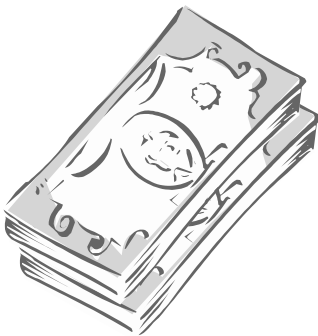
If your unit needs repairs, there are six options that you can take. However, all five options require you to keep documentation and pay the rent.

ALWAYS put it in WRITING



The first thing you must do if your rental unit needs repairs is to inform the landlord in writing. Although the landlord is supposed to make repairs upon verbal notice, you will need a copy of your letter as evidence if you want to exercise any of your legal options. In your letter, be as specific as possible about the types of repairs you need. If writing a letter is difficult for you, you may want to use the form letter attached to this packet. *Make sure you keep a copy of all letters you send to your landlord.*

CONTINUE to pay your RENT



You may have heard that you have a right to with-hold rent if your landlord refuses to make repairs. Technically this is true. However, when you with-hold your rent, your landlord will in most cases file an eviction case against you. Even if you win the case your credit may be irreparably damaged and it may make it far more difficult for you to find housing in the future. Moreover, even if you win, you will have to pay the back rent which has been with-held (minus any court awarded reduction due to habitability problems).

In almost every case, when a tenant withholds rent it damages the tenant more than the landlord. We strongly urge you to pay your rent and get repairs through one of the options outlined on the following pages.

The FIRST option to get repairs for your unit is to ask your landlord and/or his/her representative.

OPTION 1: call your LANDLORD



Before you call your landlord, determine who or what caused the damage and created the need for repairs. Read your lease or rental agreement if you have one and understand what it says. Make sure your rent is up to date, make a note about your call and what is said by you and your landlord. After you notify your landlord you will need to give him/her a ‘reasonable’ amount of time to make the repair. The ‘reasonable’ standard takes into consideration the seriousness of the problem and how available the resources are to make the repair. If it is Sunday and no store are open or no plumbers are available, the repairs may have to wait a day or two. If there is not water coming into the unit, repairs will need to be made as soon as possible.

The rest of this packet will cover what you need to know and do when your landlord does not do what he/she is required to do, by law.

IMPORTANT TIPS

Read your lease or rental agreement.

You will want to make sure you understand what you have agreed to in addition to what the law provides. For example, if you have a yard, your lease could indicate who is responsible for taking care of the yard. Or your lease could outline how you are to inform your landlord about the need for repairs. Make sure you comply with your lease.

Determine who caused the damage.

If you caused the damage you are responsible for fixing the damage. Depending upon what needs fixing, you may negotiate with your landlord to make the repairs and set up a payment plan to reimburse him/her. It is not always easy to determine who caused damage. Sometimes the problem started awhile ago but is only showing up now. This is one reason to contact your landlord as soon as possible when you notice a problem. Waiting too long to fix damage to a housing unit can lead to worse damage and more expensive repairs.

What about Painting?

The law does not require landlords to repaint apartments. However, if the paint in your apartment is lead based and is peeling or chipping off the walls, a city inspector may require your landlord to repaint. Phone numbers for city inspectors are listed on page 3.

What about Smoke Detectors?

If your building has more than one rental unit in it, the landlord is required to provide operable smoke detectors both in the units and in the common areas (hallways).

The SECOND option to get repairs* for serious damage to your unit is to call for an inspection by local officials.

OPTION 2: call the INSPECTORS



Every city has a department which is responsible for inspecting residential property for code violations. When an inspector cites your landlord for code violations, a notice of violation is issued. If the landlord doesn't make the repairs in the notice of violation, she can be fined by the city.



The advantage to calling codes and compliance is that the notice of violation will be strong evidence if you end up exercising any of your legal remedies. Another advantage is that if the landlord doesn't make the repairs in the notice of violation for 35 days, you may be able to sue the landlord and force him to pay your attorneys fees.



The disadvantage of calling codes and compliance is that it can take a while to get an inspection and even though the landlord has been cited, she may not make the repairs. In that case you will have to live with the uninhabitable conditions until you get the repairs made through one of your other options.



Warning: DO NOT call the city inspectors if you live in an illegal unit. If you do, the inspector may just order the landlord to shut down the unit rather than ordering that repairs be made. Contact a local tenant counseling group for more information. See the following page for phone numbers for local (Alameda, Contra Costa and San Francisco) inspections.

The following is a list of phone numbers for inspections.

Oakland Codes and Compliance	(510) 238-3381
Berkeley Codes & Inspections	(510) 981-5444
Emeryville Building Inspections	(510) 596-4315
Alameda County Environmental Health (roaches, rodents)	(510) 567-6700
Alameda County Vector Control (rodents, wasps, bees)	(510) 567-6800
Lead Poisoning Prevention Program (lead in paint)	(510) 567-8281
PG&E (gas leaks and gas appliances)	(800) 743-5000
SF Dept. of Building Inspection	(415) 558-6220
SF Dept. of Public Health	(415) 252-3800
Children's Environmental Health Program (lead)	(415) 554-8930
Contra Costa County Vector Control	(925) 685-9301
Antioch Codes and Inspections	(925) 779-7065
Concord Codes and Inspections	(925) 671-3107
Richmond Codes and Inspections	(510) 620-6868
Walnut Creek Codes and Inspections	(925) 943-5834

IF YOU LIVE IN A RENT CONTROL JURISDICTION, the THIRD option to get repairs for serious problems for your unit is to petition your local rent board.

OPTION 3: petition the RENT BOARD



In some cities, there is a local rent board through which you can file a petition asking to have your rent lowered until the landlord makes repairs. If you file a petition for a rent reduction, you will have to prove that your rental unit is in need of repair. See the section on documentation on page 14 for information on gathering evidence for your case.



Advantages to petitioning the rent board are that you are not putting yourself at risk of eviction and you can have your rent lowered until the repairs are made.



A disadvantage is that this remedy is only available in a few cities.

Contact your local rent board to find out more about the petition process.

Oakland Residential Rent Adjustment Program	(510) 238-3721
Berkeley Rent Stabilization Program	(510) 644-6128
SF Residential Rent Stabilization & Arbitration Board	(415) 252-4600

The FOURTH option to get repairs for your unit is to Repair and Deduct.

OPTION 4: REPAIR AND DEDUCT



A faster, but somewhat riskier, way to get repairs made is to make the repairs yourself and then deduct the cost from your rent. There are important limitations to your right to repair and deduct, so this option must be exercised thoughtfully.



The advantage to using the repair and deduct remedy is that you get the repairs made quickly.



Disadvantages include that your landlord may attempt to evict you for non-payment of rent. Even if the landlord loses the eviction case—the filing of the lawsuit may irreparably damage your credit. If this risk is unacceptable, please see option 5 on page 12.

You may only deduct expenses for repairing substantial defects which make the rental unit legally uninhabitable. (See page 4 for information on habitability.) You may not deduct for repairs that are considered cosmetic or for conditions that are caused by the tenant's household or guests. If you choose to make the repairs yourself and deduct the cost from your rent, you may not deduct more than one month's rent. Also, you may only exercise this right twice in any twelve month period.

HOW TO USE THE REPAIR AND DEDUCT REMEDY:

1. Write a letter to your landlord stating what repairs are needed, telling him or her that the repairs must be made within 30 days or you will have the repairs made and deduct the cost from your rent. A sample letter is at the back of this packet.
2. Photocopy the letter and keep the copy in a safe place.
3. Take the letter to the post office and get a certificate of mailing (around 90 cents). This is different from certified mail because the landlord does not have to sign for the letter. Keep the letter and certificate in a safe place. Staple the certificate of mailing to the photocopy of the letter you sent.
4. If the repairs are not done in thirty days, make the repairs yourself or have them made. Make sure you get a receipt from anyone you pay to do the work for you. Keep receipts for all your costs in a safe place. If possible, take pictures or a video before and after the repairs.
5. When you pay your rent, deduct the amount you spent on the repairs from your rent. Include copies of all your receipts (keep your originals).

If your landlord gives you a 3-day notice demanding the rest of the rent, you have the option of paying the rent and then suing in small claims court. If you do not or cannot pay the rent, you may have to fight an eviction action. If you have saved all of your receipts, letters, and other documentation, you will have a strong chance of winning your case. However, even if you win, your credit may be damaged by the filing of the lawsuit. If you follow the instructions carefully, are otherwise a tenant in good standing, and your landlord serves you with an eviction notice, you can receive free legal advice from Repair and Deduct Project attorneys. Additionally, we may be able to provide free legal representation if your case goes to court.

If you would like more information regarding the repair and deduct remedy, **call the Repair and Deduct Self-Help Hotline at (800) 806-8111 for Berkeley and Oakland, and (415) 782-8903 for SF.**

The FIFTH option to get repairs for your unit is to sue in Smalls Claims Court.

OPTION 5: SUE in SMALL CLAIMS COURT



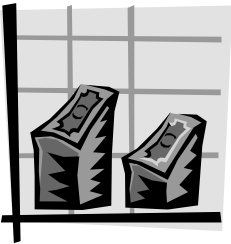
There are a couple of ways you can use the small claims court to get your repairs made. If you can afford it, you can have the repairs made yourself, and then sue the landlord for the money you spent making the repairs (up to \$5000 maximum).



The advantage of taking this course is that you are not putting yourself at risk of eviction.



Disadvantages include that you have pay for the repairs and also keep paying your rent.



Another alternative is to sue your landlord for a rent reduction. It is unusual, but possible, to obtain an injunction from the court ordering the landlord to “specifically perform” duties owed pursuant to the rental agreement (CCP Section 116.220). Such an order could force the landlord to lower the rent or to perform needed repairs.

Each member of the household may sue the landlord for up to \$5,000.00. If you choose to sue your landlord, you will need letters, pictures, and/or other evidence to prove your case. See the section on documentation on page 14 for information on gathering evidence for your case.



Small Claims Legal Advice Program
(Alameda County)

(510) 268-7665 Weds. 8:30 am- 12:00 pm
Free advice: Thursday 1:00 - 4:00 pm
Wiley W. Manuel
Courthouse Self Help Center
661 Washington St. 2nd floor
Oakland, California

Small Claims Advisor (SF)

(415) 292-2121
Free advice: M-F 8:30-11:30 am;
1:00 - 4:00 pm
Small Claims Division
Civic Center Courthouse
400 McAllister Street, Room 103
San Francisco, CA 94102-4514

Small Claims Advisory Line
(Contra Costa County) 24 hours

Calls from within the county:
888-676-7277
Calls from any location:
925-646-6109
Have pen and paper ready to write
down info. or leave a message Mo.-Fr.
9 am-5 pm for a return call.

The SIXTH option to get repairs for your unit is the "Rent Withholding Remedy".

OPTION 6: "Rent Withholding" REMEDY



By law, a tenant is allowed to withhold (stop paying) some or all of the rent if the landlord does not fix serious defects that violate his/her responsibility to keep rental units up to code. WE DO NOT RECOMMEND THAT YOU USE THIS OPTION.

The defects must be serious ones that threaten the tenant's health or safety. See Page 4 for a list of landlord obligations.

The landlord has not violated his/her obligation merely because the rental unit is not in perfect or pleasing condition. Nor has he/she violated his/her obligations if there are minor housing violations, which, alone do not affect the tenant's safety.

Many people feel that they have the right to withhold their rent if the landlord has not held up his/her responsibilities. This is not true. The law allows, only in limited situations, for this remedy. If it is used we strongly encourage that a renter work with a lawyer to set it up. DO NOT use this option without thinking it through very carefully.



Even if you are able to fight off an eviction that is filed against you for failure to pay rent, the eviction may show up on your credit history.

Last reminders before you exercise your right to live in a safe and sound home!

DOCUMENTATION!

No matter which option you choose to get repairs made, you will have to be able to prove that repairs were necessary and that your landlord knew that the repairs were needed.

A notice of violation from your city's department of codes and compliance is very good evidence both of the necessity of repairs and of notice to your landlord (since the city sends the notice directly to the landlord). See the section on calling the inspectors on page 3.

Photographs of the items in need of repair are extremely useful in proving your case. Take pictures before the repairs are made and develop them early so that you have the chance of re-taking the pictures if they didn't turn out.

Letters between you and your landlord show what the landlord knew and when the landlord knew it. If you have to sue your landlord, copies of your letters will be invaluable in showing that your landlord unreasonably refused to make repairs.

Keep all of your evidence in a safe place. If possible, keep an extra copy of everything at a friend's house in case your set gets damaged or stolen.

Join forces with other TENANTS

A group of tenants working together to solve a problem is much more effective than one tenant working alone. If other tenants in your building are having similar problems with the landlord, get a group together to sign a letter or to file a petition with the rent board. If your building doesn't have a tenants association, start one.

Join forces with other tenants to gain legal protection for tenants for habitable housing, reasonable rent levels, and protection from unfair evictions.

Oakland Tenants' Union	(510) 704-5276	
Just Cause Oakland	(510) 763-8877	
Housing Rights, Inc.	(510) 548-8776	
SF Tenants' Union	(415) 282-6622	558 Capp St. (at 21st)
Housing Rights Committee (SF)	(415)703-8644	427 South Van Ness (at 16th)
St. Peter's Housing Committee (SF)	(415) 487-9203	474 Valencia, Room 156
Chinatown Community Tenants Assoc.	(415) 984-1450	1525 Grant Ave
Richmond Just Cause Campaign	(510) 232-2596	

If needed, call for more INFO.

If you would like more information regarding the repair and deduct remedy, call the Repair and Deduct Self-Help Hotline at (800) 806-8111/ (415) 782-8903. Please also visit our website at www.rentersrights.info

If you have a success story to share, please call us at our hotline and leave us your story and contact information.

tenant's name and address:

Date: _____

landlord's name and address:

Dear _____,

The following items in my rental unit are in need of repair (also see attached Checklist of Defective Items & Locations):

Please make arrangements to have these repairs made. If the repairs are not made within thirty days of the date of this letter, I will exercise my rights under Civil Code 1942 to have the repairs made and deduct the cost from my rent.

Yours Truly,

Tenant

CHECKLIST OF DEFECTIVE ITEMS & LOCATIONS

ROOMS / AREAS WHERE REPAIRS ARE NEEDED:

- _____ Bathroom #1 (Describe: _____)
- _____ Bathroom #2 (Describe: _____)
- _____ Kitchen
- _____ Bedroom #1 (Describe: _____)
- _____ Bedroom #2 (Describe: _____)
- _____ Living Room
- _____ Dining Room
- _____ Yard, Garden
- _____ Steps (Interior or Exterior)
- _____ Deck, Terrace, Patio
- _____ Other Area #1 (Describe: _____)
- _____ Other Area #2 (Describe: _____)

ITEMS NEEDING REPAIRS

- | | |
|--|---|
| <input type="checkbox"/> Water Leaks, Other Moisture Problems | <input type="checkbox"/> Cold Air / Wet Air / Other Lack of Weatherproofing |
| <input type="checkbox"/> Mold or Mildew | <input type="checkbox"/> Floors & Floor Coverings (inc. Carpets) |
| <input type="checkbox"/> Plumbing & Pipes | <input type="checkbox"/> Walls |
| <input type="checkbox"/> Sinks | <input type="checkbox"/> Ceilings |
| <input type="checkbox"/> Bathtubs & Showers | <input type="checkbox"/> Windows |
| <input type="checkbox"/> Toilets | <input type="checkbox"/> Window Locks |
| <input type="checkbox"/> No Hot Water or Insufficient Hot Water | <input type="checkbox"/> Window Screens |
| <input type="checkbox"/> No Cold Water or Insufficient Cold Water | <input type="checkbox"/> Shades, Drapes, Other Window Coverings |
| <input type="checkbox"/> Electrical Short-Circuits | <input type="checkbox"/> Doors |
| <input type="checkbox"/> Smoke Detectors | <input type="checkbox"/> Door Locks incl. Deadbolt Locks |
| <input type="checkbox"/> Electrical Outlets | |
| <input type="checkbox"/> Electrical Wiring | |
| <input type="checkbox"/> Light Fixtures | <input type="checkbox"/> Heaters & Furnaces |
| <input type="checkbox"/> Doorbells | <input type="checkbox"/> No Heat or Lack of Sufficient Heat |
| <input type="checkbox"/> Telephone Jacks | <input type="checkbox"/> Fireplaces |
| <input type="checkbox"/> Stoves | <input type="checkbox"/> Yard & Garden Items |
| <input type="checkbox"/> Ovens | <input type="checkbox"/> Deck, Terrace, Patio |
| <input type="checkbox"/> Refrigerators | <input type="checkbox"/> Stairs |
| <input type="checkbox"/> Dishwashers | <input type="checkbox"/> Railings |
| <input type="checkbox"/> Garbage Disposals | |
| <input type="checkbox"/> Kitchen Counters | <input type="checkbox"/> Security Systems |
| <input type="checkbox"/> Air Conditioning | <input type="checkbox"/> Mailboxes |
| <input type="checkbox"/> Rats and/or Mice | |
| <input type="checkbox"/> Cockroaches | |
| <input type="checkbox"/> Other Vermin (Describe:use back) | |
| <input type="checkbox"/> Debris, Filth, Rubbish, Garbage | |
| <input type="checkbox"/> Inadequate Garbage Receptacles & Garbage Collection | |

