

HOW TO GET YOUR LANDLORD TO MAKE REPAIRS

REPAIR AND DEDUCT SELF-HELP INFORMATIONAL PACKET

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

Landlord obligations and tenant **OBLIGATIONS**

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 reasonable amount of hot and cold running water and a sewage disposal system.
- Adequate and safe 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 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.

What about Painting?

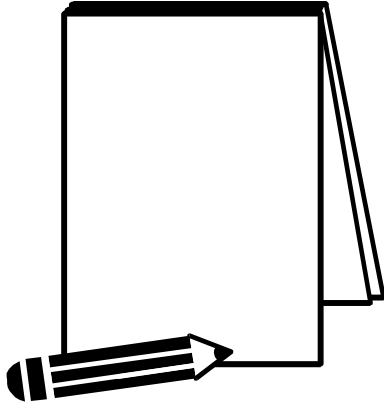
The law does not require landlords to repaint apartments. However, if the paint in your apartment is lead based and is peeling or chipping off the walls, a city inspector may require your landlord to repaint. Phone numbers for city inspectors are listed on page 3.

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).

If your unit needs repairs, there are four options that you can take. However, all four 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 will be irreparably damaged and it will 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.

OPTION 1: 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 60 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 pg. 7 for phone numbers)

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
SF Dept. of Public Health (lead)	(415) 554-8930

The SECOND option to get repairs for your unit is to petition your local rent board

OPTION 2: 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 7 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.



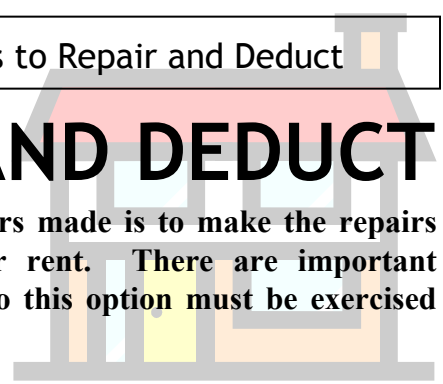
A disadvantage is that this remedy is only available in a few cities.

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

Oakland Residential Rent Arbitration Board	(510) 238-6246
Berkeley Rent Stabilization Program	(510) 644-6128
SF Rent Board	(415) 252-4600

OPTION 3: 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 will irreparably damage your credit. If this risk is unacceptable, please see option 4 on the next page.

You may only deduct expenses for repairing substantial defects which make the rental unit legally uninhabitable. (See page one 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 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 will 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 will be damaged by the filing of the lawsuit. If you follow the instructions carefully, and 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.**

OPTION 4: 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).



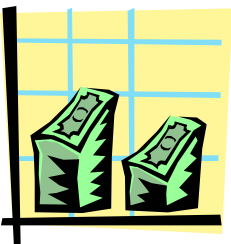
The advantage of taking this course is that you are not putting yourself at risk of eviction.



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 7 for information on gathering evidence for your case.



Small Claims Advisor (Alameda County)

(510) 893-7160

Free advice: Thursday 1:00 - 4:00 pm

Small Claims Advice Room

Allen E. Broussard Justice Center

600 Washington St. 5th floor, Dept 141

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



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 Organization	(510) 464-1011	
Housing Rights	(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

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"/> Heaters & Furnaces |
| <input type="checkbox"/> Light Fixtures | <input type="checkbox"/> No Heat or Lack of Sufficient Heat |
| <input type="checkbox"/> Doorbells | <input type="checkbox"/> Fireplaces |
| <input type="checkbox"/> Telephone Jacks | |
| <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"/> Security Systems |
| <input type="checkbox"/> Kitchen Counters | <input type="checkbox"/> Mailboxes |
| <input type="checkbox"/> Air Conditioning | |
| <input type="checkbox"/> Rats and/or Mice | |
| <input type="checkbox"/> Cockroaches | |
| <input type="checkbox"/> Other Vermin (Describe: _____) | |
| <input type="checkbox"/> Debris, Filth, Rubbish, Garbage | |
| <input type="checkbox"/> Inadequate Garbage Receptacles & Garbage Collection | |