

Affordable Housing Advocates Tenants' Rights Project

HOW TO GET YOUR LANDLORD TO MAKE REPAIRS

If there are serious defects in your house, apartment or complex, and you, your family or a guest did not cause them, you have rights. Serious defects are those that affect you and your family's health and safety, such as lack of heat or smoke/carbon monoxide alarms, defective wiring or plumbing, loose railing, etc. These rights do NOT apply to minor problems such as missing window screens or aesthetic complaints such as old carpeting and faded curtains.

What to do When Repairs Are Needed

1. Document the Problems- Make a list of all of the defects. Be specific: for example, "kitchen hot water faucet leaks" as opposed to "leaky plumbing" or "infestation of cockroaches" instead of "bugs". Clean your unit including in, under and behind all appliances. Take pictures of each defect.

To prove and help reduce infestations regularly set, collect and save traps. Write on each trap the date when, and place where you set it. Collect the traps every 10-14 days and store them in a plastic bag. Write the date you collect the traps on the bag. Keep the traps collected in the past month in your freezer as evidence of the infestation for your landlord, code enforcement or the Judge. If you do not know what a pest is, you may take an intact (whole) sample to the County of San Diego, Department of Environmental Health at 5570 Overland Avenue, San Diego, CA 92123. They are open Monday through Friday, from 8:00 a.m. to 5:00 p.m. and can be reached at (858) 694-2888.

2. Give Notice to the Landlord or Manager- Deliver or mail the list of defects with a letter requesting repairs. You may send a copy of the letter by certified mail, return receipt requested. Keep a copy of the list and letter for your records.

3. Cooperate with all reasonable repair efforts- You are entitled to at least 24 hours written notice before your unit is inspected or repaired. The notice must state the date, approximate time and reason for the visit. Entry must be made during normal business hours. Civil Code § 1954. Keep a copy of all notices. Keep a calendar or journal noting each step in the repair process. Write to the landlord or manager if you do not receive proper notice or the repairs are inadequate.

What to do When the Landlord Does Not Make Repairs

Unless the problem is an emergency, like a clogged toilet, you must wait thirty (30) days from the date you mail or deliver your list and letter before exercising the following rights:

- 1. Repair and Deduct-** If the serious defect can be corrected for the cost of no more than one month's rent, you may pay for repairs and deduct the cost of repairs from the next month's rent. Civil Code § 1942. Try to get at least two (2) written estimates from licensed, insured workmen before hiring one to do the work. You must provide a copy of the receipt to the landlord or manager with the balance of the rent, if any. Keep any estimates and your original receipt for your records. This remedy cannot be used more than twice in any 12 month period.
- 2. File a Complaint with City Code Enforcement-** In the City of San Diego you may call 619-236-5500, or go online at: <http://www.sandiego.gov/ced/report/investigation.shtml> to report defects. Keep a copy for your records. Prepare your unit for an inspection by cleaning it thoroughly including in, under and behind all appliances, and collecting traps.
- 3. Withhold Rent-** If the cost to repair the serious defect(s) exceeds one month's rent, than you may withhold all or a portion of the rent, until repairs are completed. Under the law, you owe rent based on the reduced value of the unit, with the defect(s). If the landlord accepts your offer of reduced rent as the full amount due, make sure that your rent receipt notes "paid in full" or, if you pay by money order or check, note "full rent (month and year)" on the payment.
- 4. Sue in Small Claims Court-** You can sue the landlord in Small Claims Court, for all or part of your back rent based on the "percentage reduction of use". Before you do, you must send a demand letter to your landlord. For more help, see our Small Claims Handout, available online, or visit the court's website at <http://www.courts.ca.gov/selfhelp-smallclaims.htm>.

Retaliation- If you exercise any of your rights, your landlord may not retaliate by:

1. Bringing an action to recover possession;
2. Causing you to quit involuntarily;
3. Increasing the rent;
4. Decreasing any services; or
5. Threatening to do any of these things

within 180 days of the last protected act, i.e. the last oral or written complaint, complaint to an appropriate agency, agency inspection, the filing or adverse resolution of a case regarding defects, or other exercise of tenant's rights. Civil Code § 1942.5.