

TENANTS' RIGHTS (Frequently Asked Questions)

Can my landlord enter my apartment at any time?

Generally no. However, a landlord may enter a tenant's apartment in some situations. For example, generally, the landlord can enter your apartment:

- 1) At a reasonable time after providing reasonable notice if the entry is either
 - To provide necessary or agreed upon repairs or services, or
 - In accordance with the lease, or
 - To show the apartment to prospective tenants or purchasers; and
- 2) In an emergency, at any time and without notice.

My landlord has changed the locks on my apartment. Is the landlord allowed to change my locks?

Changing the locks on an resident's apartment without giving the resident a key would be a violation of the Unlawful Eviction Law (NYC Administrative Code §26-521) if:

- 1) The resident is:
 - A tenant or subtenant with a lease,
 - An occupant who has lawfully lived in the apartment for more than thirty days (with or without the lease),
 - A subtenant, roommate or relative who has lived in the apartment for at least thirty days (even if the person is not on the lease and has not made any direct payments to the landlord),
 - A resident of a rent stabilized hotel room who has made a request for a lease;

and

- 2) The landlord does not have a warrant of eviction.

What can I do?

You can go to the nearest police station and report that you have been illegally locked out. You can also go to the Housing Court and start an "illegal lock out case" (Real Property Actions Proceedings Law §853). Before going to the court, you should contact Legal Aid or Legal Services to see if you qualify for free legal representation. If you are not eligible, you may want to contact a private attorney to assist you in starting the case. Even if you do not have an attorney, you can still go to Housing Court and speak to the Clerk about starting an illegal lock out case proceeding. When you go to Court, you should bring any papers or other items that you have which show that you are a resident of your apartment/building.

If you believe or suspect that you will be locked out of your apartment, you should be prepared with the necessary documentation to establish that you are the lawful occupant of the apartment. Therefore, you may want to leave copies of whatever papers you have which establish your occupancy with a friend or relative who does not live in the apartment. You also should take the documents with you whenever you leave your apartment so that you can establish to the Police Department and/or the Court that you are the lawful occupant. Documents that will be useful include, but are not limited to:

1. A lease,
2. Rent receipts,

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The most current information about the New York City Department of Housing Preservation and Development (HPD) is available at www.nyc.gov/hpd or by calling the City's Citizen Service Center at 311.

3. Utility bills or other bills directed to you with respect to your apartment (telephone, cable, etc.),
4. Mail addressed to you or documents issued to you at your apartment (letters, voter registration card, driver's license, etc.),
5. Any documentation of previous harassment by or conflict with the landlord.

I received a notice from my landlord. What should I do?

It depends on what kind of notice you received.

What is a Notice to Cure? What should I do?

The Notice to Cure generally provides you with notice that the landlord considers certain actions to be in violation of your obligations as a tenant. If the Notice correctly describes conditions in violation of your obligations and you can fix them within the time provided, cure the condition. If not, try to get some advice from an attorney or a tenant advocacy group about your rights. The Notice to Cure is not an eviction case or a court paper.

What is a Notice of Termination? What should I do?

If you received a Notice of Termination or Notice to Quit, it is also not a court document. These notices notify the tenant that the tenancy is terminated and that, if the tenant does not give up the apartment and move out, the landlord will go to court to seek the tenant's eviction. The length of the notice depends upon the nature of your tenancy (rent stabilized, rent controlled, unregulated, weekly or monthly) and/or the terms of your lease. At the end of the period, if you have not moved, the landlord may **not** simply put you out of your apartment. The landlord must start an eviction proceeding and obtain a warrant of eviction from the Court before you can be evicted.

Thus, if you receive a Notice of Termination and do not move out of your apartment by the end of the notice period, you should receive a Notice of Petition and Petition seeking an order evicting you from your apartment (Holdover Proceeding). **DO NOT IGNORE THESE PAPERS.** As soon as you receive those papers, consult with an attorney or go to Housing Court on the date that the Notice of Petition advises you to appear.

I owe my Landlord rent and the landlord has demanded that I pay the rent. What should I do?

This depends on whether or not you have a lease and upon your reasons for not paying. Remember that the landlord must go to court and get permission to evict you. You cannot be evicted without the court's permission. The demand for rent is not a court paper and is not an eviction case. Generally, the landlord must make a demand for rent before going to court. If you do not pay the rent, you should receive a Notice of Petition and Petition seeking an order evicting you from your apartment for non-payment of rent (Non-Payment Proceeding). If you are not withholding rent to get repairs, you should pay the rent in order to avoid being sued. If you do not have the money, you may want to visit a New York City Human Resources Administration Job Center to see if you are eligible for emergency assistance. To find the location of the appropriate Job Center, where you may make an application for emergency assistance, you can call the HRA information line (877) 472-8411. If you are withholding rent because your apartment needs repairs, make sure that you save the money for the rent and keep it in a safe place, such as a bank account. However, it is not advisable to withhold rent to get repairs unless you have legal assistance.

I received a Notice of Petition and Petition, what should I do?

Do not ignore it. A Notice of Petition and Petition are court papers for an eviction case. If you do not respond to the papers, you can be evicted from your apartment.

If the Notice of Petition and Petition are in a Holdover Proceeding, what should I do?

You must go to court on the date stated in the Notice of Petition. This will be your first court date. It is extremely important that you go to court on that date because if you miss it, the landlord may be able to get a default judgment of eviction.

At the court, you may answer orally or in writing. Most tenants without lawyers should answer orally to the Clerk of the Court. The defenses to a holdover case are very complicated and you should be sure to talk to the Resource Center in the Housing Court before answering. Security guards in the courthouse will know where the center is located. At the Resource Center, you can speak with an attorney who can provide advice about filing an answer and proceeding with the case. When you answer, a court date should be assigned.

If the Notice of Petition and Petition or “Dispossess” are in a Non-payment Proceeding, what should I do?

You must go to the Housing Court and “answer” within five days of receiving the Notice of Petition. An answer is a list of reasons why you believe that the landlord should not win the eviction case. At the Court, you will have to submit an answer, either orally or in writing. The Court Clerk will help you and prepare the answer for you. You should bring the Notice of Petition and Petition with you to the court.

You should be familiar with appropriate legal defenses and counterclaims before going to court. Your answer should include all defenses and counterclaims that may apply to the case. Before going to the courtroom, you should stop by the Resource Center located in the Housing Court. Security guards in the courthouse will know where the center is located. At the Resource Center, you can speak with an attorney who can provide advice about filing your answer and proceeding with your case.

Although tenants may answer orally or in writing, it is highly recommended that an unrepresented tenant answer orally. To answer orally, you should speak with a clerk at the counter who will ask you questions and fill out a form based on the answers. You will be given a copy of the form once it is completed. You should read the form to see if the answers are correct. If not, you should tell the clerk and ask the clerk to change the form. You should bring a copy of the answer and all other relevant documents with you on the hearing date.

If you do not go to Court to answer or if you do not appear in Court on the date that your case is scheduled, the landlord may obtain a default judgment of eviction against you and you may be evicted from your home.

My landlord refuses to make repairs to my apartment. What can I do?

There are several things you can do to get their landlord to make repairs; however, you may want to take the following steps in order to establish a record:

1. Contact the building superintendent regarding the repairs.
2. If the superintendent or management company does not respond, write a letter to the owner of the building that describes the problems in your apartment and asks for the repairs to be made by a certain date. You should send the letter to the owner and management company by certified mail and keep a copy for your records.
3. If you do not receive a response to the letter, you should try to contact the owner in person or by phone. Let him or her know that if the repairs are not completed, that the tenant will have to file a complaint. Keep a record of all of your attempts to get the landlord to make repairs, as this will be useful in court.

If the owner still does not respond or fails to provide essential services, you may report the condition to the City's Citizen Service Center at 311 (311 may be accessed outside New York City by dialing (212) NEW YORK). For the hearing impaired, the TTY number is (212) 504-4115. The Center is open 24 hours a day, seven days a week.

You can also bring a case against the landlord in Housing Court to get an order to correct the conditions. This case is called an HP Action. HP actions are lawsuits brought by tenants or groups of tenants against landlords to force them to make repairs and provide essential services, like heat and hot water. A landlord's failure to make a repair or provide an important service may be a violation of the New York City Housing Maintenance Code or the Multiple Dwelling Law. In an HP action, a judge can order the landlord to correct the violations. If you want to start an HP proceeding against your landlord, go to the Clerk's Office at the Housing Court. You do not need a lawyer to start an HP case.

Can I share my apartment with a roommate?

Generally yes. If you rented the apartment by yourself, you may allow your immediate family and one additional person and their dependent children to move in. However, there are laws to prevent overcrowding in apartments, and the landlord may limit the total number of people you may move in to the apartment. If you want to share your apartment, you should continue to live in the apartment unless you intend to sublet the apartment with the owner's permission.

You must tell your landlord the name of any new tenants in your apartment within 30 days from the time that the person moves in, or within 30 days after a request by the landlord. (Real Property Law §235(f)).

My Landlord raised my rent. I think it is too high. What can I do?

If your apartment is subject to rent control or rent stabilization, the New York State Division of Housing and Community Renewal (DHCR) and the Rent Guidelines Board determine the amount that your landlord may increase your rent. If you don't know the status of your apartment, you can call DHCR at (718) 739-6400. DHCR can also answer any questions about whether the amount of the increase is too high.

If your apartment is not regulated, DHCR does not regulate your rent. If you have a lease, the legal rent is what it states in the lease and can be raised only as permitted by the lease or at the expiration of the lease. If you do not have a lease, the landlord may raise your rent to whatever amount the landlord wishes, as long as the landlord tells you a month before the rent increase. If you do not pay the increase, the landlord may evict you if you received legally adequate notice of the increase.

If you live in public or subsidized housing, increases in the amount of rent you pay are subject to the regulations for that housing and are usually related to your family's income.

Am I entitled to have my apartment painted?

Yes, the landlord must paint occupied apartments in multiple dwellings (buildings with three or more apartments) every three years. (NYC Administrative Code §27-2013).

The landlord says that a carbon monoxide detecting device must be installed in my apartment and that I must pay for it.

The owner must install a carbon monoxide detecting device in your apartment. It is your obligation to maintain that device and to replace it if it is missing or inoperable. The owner can require you to pay \$25 to reimburse the cost of that installation.

Am I supposed to get my security deposit back?

Yes, at the end of your tenancy, you are entitled to get your security deposit back with interest. Before returning your deposit the landlord may check your apartment to determine if you caused any damage. If you did not cause damage to the apartment, the landlord should return the full amount of your deposit with interest. If you did cause damage, the landlord is permitted to deduct the cost of repairing that damage before returning the balance of your security deposit to you.

In preparing these materials, HPD used and borrowed from the following materials: The City Bar Fund's LANDLORD-TENANT FAQs and NYS DHCR's Website's Frequently Asked Questions.