



## Maintenance of Rental Property

Rent Control staff is often asked questions about the maintenance of rental units. Various laws at the state, county and municipal levels address this issue. Rent Control staff is only able to provide complete information on remedies available under the Rent Control Law. Because this issue is so frequently raised, however, this sheet provides some general information that goes beyond the scope of the Rent Control Law.

Both state and local laws require that a rental unit be fit to live in. The property must also comply with building and housing codes intended to protect a tenant's health and safety. While tenants are required to take reasonable care of their units and the common areas, property owners are always responsible for repairing conditions that seriously affect the rental unit's habitability. (See "California Law" section below.)

If you are a tenant whose rental unit needs repairs, notify the owner of your property of the problem(s). **If you contact the owner by phone or in person, it is a good idea to follow up your request in writing. Be sure to keep a copy of your signed and dated letter.** This can help protect your rights should there be a



dispute in the future. Most property owners want to maintain their properties in good condition since their properties are a business investment. If the owner of your unit does not make necessary repairs, however, you have several possible remedies depending on the type of problem.

### Rent Control Law Remedy – The Decrease Petition

The Santa Monica Rent Control Law encourages property owners to make necessary repairs and continue the same level of housing services and amenities that were provided on the base rental date.

Tenants whose rental units need repairs or maintenance, or tenants whose amenities or housing services have been reduced, may petition to have their monthly rent decreased. The purpose of the rent decrease is to motivate owners to maintain their properties and/or restore amenities or services. If granted, a rent decrease remains in effect until the problem for which the decrease was granted has been corrected. **A Petition for Rent Decrease may be filed once 30 days have passed from the date the owner was presented with written notice of the problem(s) from the tenant.**

Once a petition is filed, an agency staff member who is trained to assist in

dispute resolutions contacts the parties and attempts to resolve any dispute. More than half of the rent decrease petitions filed are resolved informally in mediation. Issues that are not resolved will be scheduled for a hearing, which could result in monthly rent reductions until the necessary repairs are made or services restored.

**Decrease decisions for lack of maintenance or reduction in amenities or housing services are prospective only.** That is, decreases in rent are not awarded for past months during which the problem existed. Also, decreases for maintenance-related conditions will only be granted for conditions that still exist. If tenants made repairs at their own expense, a decrease will not be granted. To recover costs, tenants may consider filing a lawsuit in small claims court.

## California Law

### California Civil Code Section 1941.1

- Doors and windows must be operable and weatherproof
- Roofs and walls must not leak
- Hot and cold water must be available in reasonable amounts
- Electrical wiring and lighting must be maintained in a safe condition
- Plumbing and gas must be maintained in good working order
- Heater must work and be safe
- Sewer and septic system must be operating
- Floors, stairways and railings must be safe
- The rental unit and common areas must be free from garbage accumulation, insect infestation, rodents or other vermin

## Remedies Under California Law

A tenant may file a lawsuit in court if the owner, after receiving written notice

from the tenant, refuses to make needed repairs in a timely manner. The grounds for such a lawsuit should be discussed with an attorney. Tenants may sue in small claims or superior court depending on the amount they are seeking. In most cases, small claims court can handle suits of up to \$5,000 and does not allow parties to be represented by an attorney. (Individuals may seek legal advice from an attorney; they just can't be represented in small claims court by an attorney.)

In limited situations, the "repair and deduct" remedy allows tenants to pay for repairs of conditions that make the unit uninhabitable and deduct the costs from their rent. A maximum of one month's rent may be deducted. The owner must have been notified of the conditions and been given a reasonable amount of time to make the needed repairs. California Civil Code Section 1942 specifies the manner in which this remedy must be applied. **"Repair and deduct" should not be used without first consulting an attorney who practices landlord-tenant law. Tenants should not stop paying rent unless advised to do so by their attorney.**

***! Please note that the "repair and deduct" remedy has very specific legal requirements. Improper application of this remedy may lead to eviction.***

If you have specific questions about State law or remedies available through other local agencies such as Santa Monica Code Enforcement, Building and Safety, the Fire Department, or the County Environmental Health Department, please contact the agency in question, a private attorney, or a legal aid society. Tenants may also call Rent Control to discuss their particular situation with an Information Analyst.