

Housing Matters

Chapter 5

TENANT SELF-HELP REMEDIES

The Chicago Residential Landlord and Tenant Ordinance provides explicit self-help remedies that tenants should use when they discover defective conditions in their apartments. It is essential to contact an attorney to begin using these remedies, but because there exists the possibility of legal action by the landlord, tenants should document and keep records of their activities.

These remedies are based on a theory similar to those we rely upon when we purchase goods at a store. For example, if you buy a stereo and then discover that it has a defect, you can return it to the store to get a replacement, have it repaired, or obtain a refund. The law implies a guarantee when we purchase goods that allows us a remedy if the goods are defective or not fit for the purpose they were intended.

A similar guarantee is implied in every residential lease agreement. In legal terms, this guarantee is called the “implied warranty of habitability.” This warranty means that your landlord guarantees that your apartment meets most of the standards set out in Chicago’s Building Code and is fit for living in. The Illinois Supreme Court has defined “fit for living in” to be an apartment that is safe and sanitary. Minor violations of the Building Code or cosmetic defects must be substantial. But like the example of the defective stereo, if your apartment does not substantially meet the standards of the Building Code, you are not receiving full value for the rent you are paying, and you may be entitled to repairs or a reduction in rent.

If you discover defective conditions in your apartment, first call your landlord to see if s/he will repair the defects. If the landlord does not respond satisfactorily, you should consider one of the remedies that follow. Remember, proof of notice of the defects to your landlord and using the remedies correctly if the landlord fails to repair are very important. If the landlord is uncooperative or not responsive and the defects appear to be serious or substantial, you should also consider calling the City Department of Buildings to arrange an inspection. The number to call is (312) 744-5000.

Repair and Deduct

If your apartment needs only minor or inexpensive repairs, “repair and deduct” is an effective way to have them completed. The repair and deduct remedy allows you to have the repairs done and then deduct the cost of the repairs from the rent payment. As always, there are steps that you must follow closely to avoid later problems. The Ordinance sets these out as follows:

1. Make a list of the necessary repairs. Be as detailed as possible. This is your chance to tell your landlord what you want repaired.

2. Send a copy of the list to your landlord along with a letter that states that you will exercise your legal right to pay for the repairs and deduct that amount from the next rent payment if the repairs are not completed within 14 days of receipt of the letter. Repair and deduct cannot begin until the 15th day after the landlord receives the demand letter. There is an example of this kind of letter in Chapter 7.
3. Send the letter by certified or registered mail, return receipt requested, or hand-deliver it to your landlord. If you give the letter to your landlord personally, have a witness go with you to be sure of the day your landlord received the letter. Be sure to keep a copy of the letter.
4. Do not exceed \$500 or of the monthly rent for the repairs, whichever is greater. If you pay less than \$500 in monthly rent, you cannot “repair and deduct” in excess of rent you pay each month.
5. Submit a paid bill to your landlord from an appropriate tradesman or supplier for the cost of the repairs. The costs must not exceed what is reasonable for such services. Remember to keep a copy of all bills and receipts.

Renter’s Resource guide Notes:

1. Make a detailed list.
2. Send a 14-day notice to landlord with this list
3. After 14 days, if the landlord has not responded, make the repairs yourself and deduct the cost from the rent.
4. Never deduct more than \$500 or of your total rent.

Withholding Rent

If your landlord fails to maintain the apartment and common areas in the manner defined by the Building Code, you may reduce your rent until your landlord fixes the problem if you follow the steps listed below carefully. Failure to do so could allow your landlord to successfully evict you for nonpayment of rent.

1. Make a detailed list of the repairs necessary in each room of the apartment and common areas. If possible, take pictures of the defective conditions and have witnesses inspect the conditions.
2. Send a copy of this list to the landlord along with a letter that states that you intend to withhold a portion of your rent if the landlord does not make the necessary repairs within 14 days of receipt of the letter. Rent withholding cannot begin until the 15th day after the landlord receives the demand letter. A sample letter can be found in

Chapter 7. The letter may state the amount you intend to withhold and should be based on the reduced value of the apartment in its defective condition.

3. Send the letter by certified or registered mail, return receipt requested, or hand-deliver it to the landlord with a witness to be sure of the day your landlord received the letter. Be sure to keep a copy of the letter.

4. Be sure you are conservative in the amount of rent you withhold! The amount is based on the reduced value of your apartment, depending on the problems in your apartment and their severity. You could be evicted if you withhold more than what the court finds to be justifiable. (if you are living there, the courts will presume that the apartment has some value.) Keep in mind that you always have the right to sue the landlord for any additional amount overpaid and not recovered through rent withholding.

5. Hold on to any money withheld. Although not required by law, you may want to put the withheld rent in a special bank account called an “escrow.” If the judge finds that you have withheld too much, the money is available to you for back rent payment and prevents an eviction. These funds can also be useful in negotiating repairs.