

# Bad Housing

If your landlord does not fix something that needs to be repaired, you have options. But be careful, you could end up getting evicted if you don't follow the proper steps. Call Utah Legal Services to answer any questions about how to proceed.

Below are common questions and answers about bad housing.

## What is my landlord required to fix?

The Fit Premises Act is the Utah law that governs housing conditions. Under this law, a landlord must provide safe and livable housing. This means the landlord must rent housing that is up to code. A faulty toilet, no hot water, a broken staircase, bare electric wires, and dangerous holes in the floor are all examples of things a landlord must fix. Your lease might include other items your landlord is responsible for fixing, such as appliances. Look to your lease to see what is covered. If you break something in your apartment or cause damage to the rental, you may have to pay for the repairs.

## Something needs to be fixed. What do I do?

Let your landlord know right away. It is best to tell your landlord in writing of any needed repairs. Speaking to your landlord may not be enough to protect your rights. Your lease may state how you are supposed to tell your landlord about repairs. Once your landlord is notified, set up a time for the repairs to be made.

Do not assume that the landlord knows about a condition just because it was there when you moved in. If you notice something that needs to be repaired when you move in, be sure to put this in writing so you cannot be held responsible for the issue later.

## The landlord has not fixed the issue, what do I do to get them to fix it?

If the landlord refuses to fix a major problem in your rental, you may want to use a "Notice of Deficient Conditions." You can find this notice, along with an explanation, at the bottom of this page. Only use this notice for problems that make your housing unsafe or unsanitary, including:

- No hot water,
- A leaking toilet,
- Broken windows,
- Heating issues,
- Electrical problems, etc.

## Using a "Notice of Deficient Conditions"

To use the "Notice of Deficient Conditions," fill out what needs to be fixed and check which action you will take if the repair is not made. After you fill out the notice, give it to your landlord and keep a copy for yourself. This notice **MUST** be served to the Owner by: (1) giving it to the Owner or the Owner's agent/manager, or (2)

sending it by certified mail to the Owner's home or usual place of business or to the Owner's agent/manager, or (3) giving it to someone 14 or older at the Owner's home or business or agent/manager's office and sending a copy by regular mail, or (4) if no one is home or at the office, taping it on the Owner's home or office in a conspicuous location such as the Owner's or manager's front door. Once you give your landlord this notice, they may make the repairs, refuse to make the repairs, or end your lease because your housing is not fit to live in.

YOU HAVE TWO OPTIONS AVAILABLE TO YOU WHEN YOU USE THE NOTICE OF DEFICIENT CONDITIONS: **Rent Abatement** or **Repair and Deduct**.

### **What is Rent Abatement?**

You must be current in your rent obligations under the lease. Rent abatement allows you to end your tenancy if the landlord does not take any steps to make the repairs within the time given in the notice. The law says your landlord has to return to you rent from the day you gave the notice to the end of the month and your security deposit. You may have to sue your landlord to enforce this law. You will have 10 days after the cure period expires to move out of your unit. Only use this option if moving out is something you can do. If you cannot move out, you may lose some protections.

### **What is Repair and Deduct?**

You must be current in your rent obligations under the lease. Repair and deduct allows you to deduct the cost of repairs from your future rent payment if the landlord fails to make the repairs within the time on the notice. After the repairs are made, you must give your landlord copies of the receipts for the repairs. Receipts need to be given to your landlord within 5 days of when the next rent payment is due.

If you deduct the repairs from your rent, the landlord may say the repairs were unnecessary and may start an eviction case against you for not paying rent. Again, you may win the case, but an eviction case is risky and can hurt your ability to get future housing even if you win.

With repair and deduct, you cannot deduct more than the amount of two months' rent even if the repair costs more.

### **Other options: calling the building inspector, Small Claims Court, mediation, etc.**

You have other options to get your landlord to make repairs, such as calling the local health department or building inspector, suing in Small Claims Court, or stating you will end your tenancy.

Sometimes calling the local health department or building inspector and having them inspect will get the landlord to make repairs. If the inspector finds code violations, the landlord will be ordered to fix the problems. If the problems are so bad, the inspector may condemn your housing. If this happens, you may be forced to leave. Your landlord cannot evict you for calling the building inspector. This is a retaliatory eviction and is illegal in Utah, but this can be difficult to prove in court. Make a note in a calendar to preserve the date and time you called the inspector to prove later that you did.

If the landlord does not respond to a written demand for the repairs to be made or from calling the inspector, you can sue your landlord in Small Claims for any inconvenience you suffered or any expenses you had. The judge

in Small Claims CANNOT order the landlord to make repairs. It is for money only.

If you are a month-to-month tenant, you can also give your landlord a written notice that you will end your tenancy if the repairs are not made. Look to your lease (even if it expired) to see how much notice you must give to your landlord before you can end your month-to-month tenancy. It may be 30 or 60 days. If you do not have a lease agreement, you need to give at least a 15 day notice. If your landlord still does not make the repairs after this notice, you can move.

Finally, you may want to consider mediation. Mediation is a process where you meet with your landlord and a third party, called a mediator, to try to work out a solution. Your landlord might not agree to go to mediation, but it can save both you and the landlord time and money. For mediation help in

- **Salt Lake County** and remainder of the state call **Utah Community Action Program** at (801) 214-3109 or email [mediation@utahca.org](mailto:mediation@utahca.org).
- **Summit and Wasatch counties** contact **Mountain Mediation Center** at (435) 336-0060 or visit their website at [www.mountainmediationcenter.org](http://www.mountainmediationcenter.org).

## **What if the problem is so bad, I can't live in the apartment any longer?**

This is sometimes called a constructive eviction. A constructive eviction is when the conditions in your housing are so bad you are forced to move out. If your housing has serious problems and your landlord will not fix, you do not have to stay if it is not safe. Serious problems include:

- No running water
- Sewage backing up in unit
- Flooding in unit
- No working furnace
- Major electrical problems, etc.

A landlord has a duty to fix major problems. If the problems are dangerous, you can give the landlord notice by any means possible, including by telephone. The landlord has 24 hours to start making the repairs after you give them notice. If your landlord refuses to fix major problems in your housing, you can break your lease and move. If you do this, the landlord may take you to court for rent they believe you still owe. But, if the conditions were so bad you could not live there, a judge may find that you don't owe anything.

Before you move out, you must give your landlord a chance to fix the problems. If you do not do this, a judge may order you to pay some rent. A judge could make you pay rent for the remainder of the lease if the judge finds you didn't have a good reason to move.

**If you continue to live in the unit, you still have to pay rent. If you do not pay rent, your landlord may evict you. You cannot get free rent because the conditions are bad. A judge will almost always make you pay some rent.**

*Call Utah Legal Services for more advice and help. Every case is different and it is best to get legal advice before you make any decisions.*

Last updated on March 06, 2024.

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