


My Landlord Refuses to Make Repairs.

Do I Still Have to Pay My Rent?

How to Force Your Landlord to Make Repairs

When asked to make repairs, many landlords will do just that. Others, however, will refuse or take too long to make the repairs. Sometimes a tenant feels that the only way to get the landlord to make the repairs is to simply not pay rent. Although this makes sense, this way of forcing repairs could get a tenant evicted.

 **TIP:** Whenever you request maintenance, you should put your request in writing, deliver a copy to your landlord, and keep a copy for your records.

Withholding Rent – Proceed With Caution!

Florida law only allows a tenant to legally stop paying rent if she has followed a very specific procedure. If the tenant does not follow the proper procedure, she can be evicted. You must meet certain requirements and must follow certain steps.

The procedure is complicated, and it is very easy to mess up. You are strongly encouraged to seek legal advice about your situation before sending a letter withholding rent!

Requirements:

❖ **YOU MUST BE CURRENT ON YOUR RENT.** If you owe the landlord money, you should not withhold rent until you have first caught up and then followed the procedure below.

❖ The problems with your apartment must be SEVERE. Some examples of problems needing serious, major repairs are:


- ☞ The plumbing has become so bad that it can't be used in a clean and sanitary manner.
- ☞ There is a hole in the roof and the rain comes in.
- ☞ Your door is broken down and you can't close it against the weather or lock it against the public.

These are just examples—other problems can be just as serious.

HOW TO DO IT RIGHT Procedure to Withhold Rent:


1. Call the County Codes Enforcement or Health Department to inspect your home and write down the problems. When the inspector comes, point out all the problems that you know about—first the serious ones, and then the minor ones. Get a copy of the report and put it in a safe place.
2. Write a letter to your landlord like the sample at the end of this document.


3. Make a copy of your letter to your landlord, and keep it in a safe place.
 4. Mail or deliver your letter to your landlord, resident manager, or rent collector. If the housing codes inspector has already come out by the time you write the letter, you should include a copy of the report with your letter to the landlord. You can send a letter before the inspector arrives, if you are sure the problems are really serious.
- ❖ If you mail the letter, you should send it "certified mail, return receipt requested." This gives you **proof** that the landlord received the letter, in case he tries to deny it later. If you mail the letter, be sure to give at least five extra days for your landlord to receive the letter.

 **TIP:** Mailing the letter this way is better than delivering it by hand because you can get **proof** the letter was received.

❖ You should make sure that your landlord receives the letter at least 7 days before your next rent payment is due. Otherwise, you should pay in full this month, and not withhold rent until the following month.

Set aside the rent money – Do not spend it! Put your rent money in the bank or some other safe place, such as with your lawyer (if you have one). Even if the broken item is causing your other bills to increase, you should not use your rent money to pay that bill. As soon as the landlord makes the repairs, the law says you must pay him the back rent and begin paying again at the regular rate. If you are unable to pay that money back after the repairs have been made, you may be evicted.

 **TIP:** How much rent should I withhold? You should keep back an amount of rent that is roughly proportional to the amount by which the problems make you unable to use your apartment. For example, if you are unable to use half of the apartment, you should withhold half of the rent. This is a good question to ask your lawyer.

 **TIP:** Even if you originally agreed to live in a property with broken items, you can still force your landlord to repair certain items. Remember that the law requires a landlord to maintain certain items (see pamphlet on Tenant Rights and Landlord Duties) and the landlord cannot get around the law.

CAUTION: If you meet the requirements and follow all the previous steps, the law says that the landlord is not allowed to evict you for not paying rent. Sometimes the landlord might try to evict you anyway. If that happens, remember that you can tell the court that you asked for repairs and that the landlord is trying to evict you just to get back at you and to avoid making the repairs. (If a landlord tries to evict you because you properly exercised your legal rights, it is called "retaliation" and is illegal. See Part 8 for more on evictions.)

What about Minor Problems?

Some examples of minor problems are a scratched cabinet door, or a loud neighbor.

- ☞ Report the problems to your landlord in writing, and keep a copy.
- ☞ Send a new letter each time the problem happens.
- ☞ Keep a log or notebook. Write down each time the problem happens.

If it is a recurring minor problem that disturbs your right to quiet enjoyment of your apartment, see a lawyer before sending a letter withholding rent.

Sample Letter for Rent Withholding

(Date)

Dear (Landlord's Name):

Pursuant to Section 83.60 of the Florida Statutes, I am notifying you of your material noncompliance with Section 83.51(1) of the Florida Statutes and with the _____ (name of Local Housing Code – if any).

Unless the problems listed below are repaired within seven (7) days after you receive this notice, I will reduce my rent to \$_____ because of your failure to maintain the premises at (List the address of the apartment.) .

The problems are:

- 1) (List of problems) BE SPECIFIC!!
- 2)
- 3)

Sincerely,

(Your signature and name printed)

Prepared by

Three Rivers Legal Services, Inc.

Gainesville

352-372-0519 or toll free 800-372-0936

-or-

Lake City

386-752-5960 or toll free 800-495-0039

-or-

Jacksonville

904-394-7450 or toll free 866-256-8091



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