

Maintenance, Repairs, & Housing Codes

The legal rights and obligations associated with being a tenant and some common terms and regulations of the tenant/landlord relationship are highlighted below. If you need information about your legal rights and responsibilities as a tenant, please contact the Massachusetts Office of Consumer Affairs and Business Regulation, +1-888-283-3757.

Useful guides published by the Massachusetts Office of Consumer Affairs and Business Regulation regarding Landlord and Tenant Rights and Responsibilities are available at:

<http://www.mass.gov/ocabr/consumer-rights-and-resources/housing/tenant-and-landlord/tenant-rights.html>

<http://www.mass.gov/ocabr/consumer-rights-and-resources/housing/tenant-and-landlord/landlord-rights.html>

Habitability

In any tenancy, whether under a lease or at will, the landlord gives an implied warranty of habitability. The landlord must guarantee you that the premises conform to certain minimum requirements of safety and cleanliness so as to be fit for human occupation. Both you and your landlord have obligations to maintain that condition.

Tenant Obligations

Your responsibilities to your landlord come from the law, the oral or written rental agreement, and in some cases, the rules your landlord enforces. When you fail to meet these obligations, your landlord can terminate or end your tenancy. Your most important obligations are to pay the rent and to keep the rental unit clean, safe, and free from unnecessary damage. Some of your obligations include:

- Properly disposing of garbage in a clean, safe way
- Following the rental agreement and your landlord's rules

- Allowing the landlord access to your unit for emergencies
- Allowing the landlord to show the unit to potential renters near the end of your tenancy
- Allowing the landlord to make announced inspections and repairs
- Using the premises only as a residence and not for commercial purposes
- Not disturbing your neighbors with noise, visitors, or pets

Landlord Obligations

The State Sanitary Code sets forth certain obligations and responsibilities for the landlord. The Residential Services Office provides a pamphlet with a complete summary of the code. Some of the landlord's obligations include:

- Keeping clean and sanitary any common area not occupied by one tenant exclusively
- Making repairs in a timely manner
- Providing and maintaining a heating system in good operating order
- Keeping the rental unit free from rodents, insects, and other pests
- Providing hot water, unless you, the tenant, are to provide fuel for heating water under a written lease agreement
- Maintaining structural elements of the rental unit; the unit should be weather tight, watertight, and in good condition
- Maintaining every exit used or intended for use by tenants of more than one apartment; exits should be free from obstructions, including snow
- Removing all lead paint from any rental unit in which children under age six live
- Obeying the regulations of the State Sanitary Code and disclosing to prospective tenants the existence of any condition that is a violation of the law

Response to Code Violations

If there are any conditions in your rental unit that you suspect may constitute violations of the State Sanitary Code, first call your landlord to

advise him or her of the situation and follow up with a written request to correct the problems. If your landlord's response is not satisfactory, call the local code department and request inspection. If you want a comprehensive investigation, prepare a list of suspected violations you wish to be investigated, or inform the inspector of them. When the inspector arrives, make sure he or she writes down all of the violations. The inspector must provide you with a copy of the report, notify your landlord of the violations, and specify a time period for them to be corrected. If your landlord has not begun or contracted for repairs within the specified time period, he or she could be subject to fines or imprisonment.

Remedies

You have several options to force remedies on faulty conditions in your rental unit. You may withhold some amount of rent if your landlord is not abiding by health and safety requirements of the local housing code. You may make emergency repairs to the rental unit and deduct up to four months rent to pay for them. You may also go to court to ask for an order requiring your landlord to correct the problem.

All of these remedies have legal ramifications. Before you decide which remedy to use, consult the Residential Services Office. The office can explain your options in more detail and suggest resources for legal advice.

Retaliatory Eviction

If you request repairs, ask for a code inspector to examine health or safety conditions, or otherwise insist that your landlord fulfill his or her obligations, you may find that your landlord may attempt to evict you. You are protected against this type of eviction. If your landlord tries to evict you within six months after the last code violation has been corrected, it will be presumed that your landlord's attempt is retaliatory and therefore illegal.

Documentation

It is essential to prepare an accurate record of the needed repairs in case court action develops later. The record may include photographs and witnesses, but it is best to get an official report from the Department of Code Inspection. Accurate documentation will help prevent retaliation by

your landlord; you would be able to exercise your rights. You should send the Department of Code Inspection copies of any problem notices that you have sent your landlord. In Worcester, you may contact an inspector from the following agencies to make an official record of the violations he or she may find:

Department of Code Inspection 25 Meade Street Worcester, MA 01610
+1-508-799-8581

Department of Public Health 37 Lee Street Worcester, MA 01602 +1-508-799-8534

Limitations

If any necessary repair is the result of your negligence or something that you or your guests have caused, then you cannot make your landlord pay for the repair, withhold rent, or seek court-ordered relief.