

FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

14 Rent Reductions For Decreased Services

Tenant rights when an owner is not maintaining services

It is recommended that a tenant who experiences a decreased service in an individual apartment or in the building should first contact the owner in writing, as detailed in the next paragraph. **However, prior written notice from the tenant to the owner is no longer a requirement. Failure to provide it to the owner and DHCR will not be grounds for the dismissal of the complaint, pursuant to the Rent Code Amendments of 2014.** If written notice does not resolve the problem, the tenant may file a complaint with the Division of Housing and Community Renewal (DHCR).

For an individual complaint a tenant may use an "*Individual Tenant Statement of Complaint of Decrease in Services*" (DHCR Form RA-81) form for complaints about conditions in the apartment. For complaints involving a decrease in building-wide services, a tenant or tenant representative may file a "*Statement of Complaint of a Decrease in Building-Wide Services*" (DHCR Form RA-84). A tenant may attach a copy of their letter to the owner or agent with proof of mailing or delivery (for example: certificate of mailing, certified mail receipt or signed receipt from owner or agent acknowledging personal delivery). Complaints should be filed with DHCR not less than 10 days from the date the letter was written to the owner.

For emergency conditions, prior written notice to the owner is not required before filing a complaint with DHCR. These emergency conditions are: vacate order (5 day notification), fire(5 day notification) no water apartment wide, no operable toilet, collapsed or collapsing ceiling or walls, collapsing floor, no heat/hot water apartment wide (violation required), broken or inoperative apartment front door lock, all elevators inoperable, no electricity apartment wide, window to fire escape (does not open), water leak (cascading water, soaking electrical fixtures), window-glass broken (not cracked), broken/unusable fire escapes, air conditioner broken (summer season). Complaints to DHCR on the appropriate DHCR form that cite any of these emergency conditions will be treated as a first priority and will be processed as quickly as possible. **It is recommended that tenants use a separate DHCR form for any problematic conditions that are not on this emergency condition list. The form solely pertaining to emergency conditions is also available online at www.nyshcr.org.**

Procedures when a Complaint of Decrease in Services is filed

1. The DHCR screens and docket these applications and sends the tenant(s) an acknowledgement with the complaint/docket number.

2. The owner's timeline to respond depends upon the nature of the complaint. A copy of the tenant's application/complaint is sent to the owner and the owner is given a specified amount of time in which to respond. At all times, DHCR may grant an owner a reasonable extension of time to respond.
3. If the owner's answer is relevant to the determination, DHCR may send a copy to the tenant who is given a specified amount of time to respond. DHCR may schedule an inspection during the processing of the application.
4. If the evidence indicates that the owner failed to maintain required services, the DHCR can issue a written order that directs the owner to restore services and reduces the rent for the apartment. The order will stay in effect until the owner applies to DHCR and receives a Rent Restoration Order that finds that services have been restored. DHCR may not issue an order concerning items which were not contained in the tenant's letter to the owner.

Tenant rights when an owner does not comply with a DHCR Service Reduction Order

If an owner has failed to restore services and/or correct the conditions specified within 30 days after the issuance date of the order, the tenant may file a "*Tenant Affirmation of Non-Compliance*" (DHCR Form RA-22.1), to request that a compliance proceeding be initiated. The tenant is also authorized to reduce their rent in accordance with the order.

Procedures if the owner cannot obtain access to the apartment to make repairs

If an owner has attempted, but been unable to obtain access to the subject housing accommodation to correct the service or equipment deficiency, the owner should state this in the response. Upon receipt, the DHCR may direct an inspector to accompany the owner or the owner's agent to the housing accommodation to determine whether such access is being provided. In order for the DHCR to coordinate the inspection, the owner should indicate that access has been denied in the response submitted to the DHCR and should include copies of two letters to the tenant attempting to arrange for access. Each of the letters must have been mailed at least eight days prior to the date proposed for access, and must have been mailed by certified mail, return receipt requested. Exceptions to such requirements for inspection may be permitted under emergency conditions, where special circumstances exist, or pursuant to court order.

The tenant's service complaint will be denied or the owner's rent restoration application will be granted, where a tenant fails to provide access at the time arranged by the DHCR for an inspection.

Effects of the DHCR rent reduction order for rent stabilized and rent controlled tenants

1. The effective date for rent stabilized tenants is retroactive back to the first day of the month following DHCR's service of the complaint on the owner. For rent controlled tenants, the effective date is the first day of the month after the order is issued.
2. The amount of the rent reduction for rent stabilized tenants is generally the most recently charged renewal lease guideline increase (**See Example #1 below**). For rent controlled tenants, the amount is a dollar amount set by DHCR (**See Example #2 below**).
3. The order generally bars further rent increases for rent stabilized tenants until DHCR issues a rent restoration order. The Rent Code Amendments of 2014 further prohibit the collection of vacancy lease rent increases and the collection of the portion of a major capital improvement rent increase that becomes collectible after the effective date of the rent reduction order. They will become collectible, prospectively only, from the effective date of the DHCR Rent Restoration Order. For rent controlled tenants, the order will generally not bar increases to the Maximum Collectible Rent (MCR) and Fuel increases. These increases may only be barred if the order found that an essential service was reduced. These are defined as heat during the part of the year when required by law, hot water, cold water, superintendent services, maintenance of front or entrance door security (including, but not limited to, lock and buzzer), garbage collection, elevator service, gas electricity and other utility services, to both public and required private areas and "such other services when failure to provide and/or maintain such would constitute a danger to the life or safety of, or would be detrimental to the health of the tenant or tenants."
4. For rent stabilized tenants, a rent restoration order will not be issued until all services listed in the rent reduction order are corrected. For rent controlled apartments, partial rent restoration orders can be issued. Owner's who want to file for a rent restoration can use form RTP-19. This form is also available online at www.nyshcr.org.

Examples

Example #1

1. Ms. Williams, a rent stabilized tenant, receives a rent reduction order for a broken window on February 15, 2008. It has an effective date of December 1, 2007.
2. She has a two year renewal lease in effect which commenced on November 1, 2007 at a rent of \$951.75 (\$900 + 51.75 (5.75%)). Prior to that renewal lease guideline increase, her rent had been \$900.
3. On March 1, 2008, Ms. William's rent will be reduced to \$900, effective December 1, 2007. If the owner does not file a Petition for Administrative Review (PAR), he or she will also owe Ms. Williams a \$51.75 refund for each of the three months of December, January and February; totaling \$155.25. Said refund for these three months is not immediately collectible if the owner files a PAR, however, the rent remains reduced to \$900.

Example #2

1. Ms. Cohen, a rent controlled tenant receives a rent reduction order for a broken window on March 15, 2008. Her Maximum Collectible Rent (MCR) is \$724.
2. The order states the rent reduction is for \$8.
3. On April 1, 2008, Ms. Cohen's rent will be reduced to \$716 (\$724 - \$8). There is no retroactivity and she is not owed a refund for previous months.

Owners or Tenants can submit affidavits by a licensed architect or engineer to support their complaint, answer or application

See Policy Statement 96-1, Third Party Certification for a complete discussion. Essentially, an owner supplied affidavit that conditions have been corrected can be rebutted by the tenants by the submission of a statement by at least 51% of the complaining tenants that the conditions still exist or by a tenant submitted counter affidavit by a licensed architect or engineer.

Sources:

New York City Rent Stabilization Code, Section 2523.4

Tenant Protection Regulations, Section 2503.4

New York City Rent and Eviction Regulations, Section 2202.16

New York State Rent and Eviction Regulations, Section 2102.4

Related Materials:

Fact Sheet #3, Required and Essential Services