



REMEDIES FOR OBTAINING NEEDED REPAIRS

The landlord must respond within a reasonable period of time to a request by the tenant for any repairs involving the implied warranty of habitability. If the landlord does not respond, a tenant may choose to use remedies allowed by law to resolve deficiencies in rental housing. These are: withholding of rent until repairs are completed; abandonment of the untenable unit; or paying for the repair and deducting the cost from the rent. If you use “repair and deduct”, the cost cannot exceed one month’s rent. These remedies can be used for any repair that involves the habitability of a rental unit, or the tenant’s health and safety. Examples include loss of electricity, roof leaks, lack of hot water, absence of working locks.

THE TENANT MAY LAWFULLY USE REPAIR AND DEDUCT, ABANDONMENT, OR RENT WITHHOLDING AS A REMEDY IF THESE CONDITIONS EXIST:

- ✓ The defects must be serious and directly related to the tenant’s health and safety.
- ✓ The tenant, guests, or pets must not be responsible for causing the deficiency in the rental unit.
- ✓ The tenant must give the landlord a reasonable amount of time to repair the deficiency.
- ✓ The tenant must provide the landlord with notice, preferably in writing, of the deficiency and of the intent to repair and deduct, abandon the rental unit, or withhold rent.
- ✓ The tenant may not use the repair and deduct remedy more than twice in a 12 month period.

WHAT ARE THE RISKS IN APPLYING REPAIR REMEDIES?

If a tenant withholds rent or deducts repairs from rent, a landlord may respond by serving the tenant with a 3-day notice to pay rent or quit. If the tenant continues to assert the right to refuse payment, the landlord has the option of filing an eviction suit in court. However, if the landlord was cited for a substantial code violation that has been unremedied for at least 30 days, he is precluded from serving notices or taking legal action. If a case proceeds to trial, the tenant must prove that the deficiencies in the rental unit violated the implied warranty of habitability or the deficiencies were severe enough to constitute a safety or health hazard. If the court finds that the deficiencies in the rental unit did not violate the implied warranty of habitability, or the deficiencies were not severe enough to constitute a safety or health hazard, then the court may order that the tenant pay the withheld rent or allow the landlord to proceed with the eviction of the tenant. Any tenant seeking to use these remedies should have strong evidence that the legal requirements of the remedy have been met, including evidence of citations for code violations.

For assistance contact **Project Sentinel (408) 720-9888**