

RENT STRIKE LEGAL FAQ

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RENT REGULATED VS. MARKET RATE APARTMENTS

Your rights may differ if you have a market rate versus a rent stabilized apartment. Be sure to know which you have.

Q: How do I know if my apartment is rent stabilized?

A: If your building has 6 or more units and was built before 1974, there is a good chance that your apartment is rent-stabilized. Also, if your landlord receives a tax benefit ("421a" or "J51") from the city, your apartment is automatically rent-stabilized. If your landlord claims that your apartment is not regulated, you can find out whether they receive a tax benefit by going to the following website: <https://a836-propertyportal.nyc.gov/> and looking up your address. You can also find out if your apartment or any apartment in your building has ever been registered as rent stabilized by texting "RENT HISTORY" to (646) 783-0627 or by calling 1-866-ASK-DHCR and asking for them to mail you a copy of the rent registration history for your apartment.

Q: What are the differences between being rent-regulated and market rate apartments?

A: Rent regulated tenants generally have more protections than market rate tenants. Rent regulated tenants are entitled to 1 or two year leases, lease renewals at the end of each leasing period, can apply for rent reductions due to decreased services in their units or buildings, have the right to have their rent raised only by certain percentages each lease term, and more. Market rate apartments do not share these rights, but these tenants still have rights.

LEASE RENEWAL

Q: Am I entitled to a lease renewal in my apartment?

Rent Stabilized: Yes. All rent stabilized tenants have the option to renew their lease every 1 or 2 years, depending on when their current lease expires.

Rent-stabilized tenants are entitled to a lease renewal when their lease expires. Upon renewal, the landlord can increase your rent but only by a percentage set by the Rent Guidelines Board. Check the Rent Guidelines Board website to view the RGB increases for the month and year of your lease renewal, in addition to past RGB-permissible increases.

-Your landlord must provide you with your renewal lease offer between 90-150 days before your current lease expires. If you do not receive a renewal lease offer within this window, you should contact your landlord in writing to inquire about your lease renewal. If you do not get a response or they still do not send you your renewal lease, you may file a complaint with the NYS Homes and Community Renewal (HCR) <https://hcr.ny.gov/system/files/documents/2019/04/ra90.pdf>. You can also use this complaint if your landlord does not send back a countersigned copy of your renewal lease.

You may remain in your apartment during the time you have an expired lease with no lease renewal offer. A landlord can only evict you through a court case and a final judgement against you.

Unregulated: Unfortunately, no. Unregulated or market-rate tenants do not have the right to a renewal lease. However, you still have related rights.

The Real Property Law 226(c) was modified to provide that landlords must notify tenants if the lease will not be renewed or if they are increasing the rent by 5% or more. The notice requirements depend on the length of the tenancy:

Occupancy less than 1 year: 30 days notice

Occupancy more than 1 year but less than 2: 60 days notice

Occupancy 2 + years: 90 days notice

The notice must include a vacate date and applies to all tenancies regardless of size of buildings. If the landlord does not provide such notice, tenancy continues on the same terms & conditions until notice is given and required notice time passes.

Q: Can I take any action against my landlord if they don't provide appropriate notice to raise my rent more than 5% or not renew my lease?

A: You could send a letter citing RPL 226(c) reiterating that you will continue to reside in the apartment and continue to pay rent based on the prior amount until such time that the LL provides a proper notice consistent with RPL 226(c). Practically speaking, it may be better to do nothing and just pay the old rent amount. Then, if you are served with a rent demand, you could serve the letter described above. This might be the best way to drag out the time you can stay in the unit at the lower rent amount.

Q: If my lease expires without renewal, can I be evicted from my apartment?

A: Yes, but the landlord must still go through the court system to do so and cannot otherwise force you to leave. This is called a no-cause holdover. A no-cause holdover is when a landlord sues to evict a tenant from an unregulated apartment. Once a tenant's lease for an unregulated apartment has expired, the landlord has no obligation to renew the lease. If a tenant's lease for the apartment is month-to-month, the landlord can choose to terminate the tenancy with 30-days notice, for no reason ("no cause").

Q: How does my landlord bring a no-cause holdover?

A: In most cases, your landlord must serve you with a thirty (30) day notice of termination that gives you a date to move out. If you do not leave by that date, your landlord must start an eviction case in housing court and serve you with the petition. If your landlord brings a case right after the lease expires, a notice may not be necessary. **If you did not receive a notice, let the court know.** In any event, your landlord cannot evict you without going through the court process first.

Q: What are common defenses in a no-cause holdover?

A: 1- Acceptance of Rent in "The Window Period":

If your landlord accepts any payment of rent between the date your tenancy is terminated (your move-out deadline) and the date the case is started, you may have a defense to your case and should let the court know.

2-Regulated Apartment:

If you believe that your apartment is rent-stabilized, you should raise this as a defense.

3- Retaliation: Per the 2019 Housing Safety and Tenant Protection Act, a "good faith" complaint to your landlord or a complaint to a governmental agency about conditions in your apartment within 6 months of the landlord bringing an eviction case, you may have a defense of retaliatory eviction. If you raise this, your landlord will have to prove that there was some other legitimate reason to terminate your lease.

Q: If I do not have defenses, how much time can I get to move?

A: Generally, if you settle your no cause holdover by agreeing to move out of your apartment, your landlord will win a judgment of possession against you. This means that legally the apartment belongs to them, but that they cannot evict you until after your move out date. Housing Court retains jurisdiction over your case for one year from the date of the entry of the judgment of possession against you, and the judge can stay your eviction for up to a year.

You can request as much time to move as you believe you need, and you should not agree to a short move out period if you do not think you can move out. Keep in mind that you can use rent money and time as bargaining chips. For example, your landlord may be willing to waive past arrears for you to move out of the apartment faster. Conversely, your landlord may be willing to grant you more time if your arrears and ongoing rent are paid.

RENT INCREASES

Basics:

- **Your rent can generally only be raised at the time of lease renewal.** The exceptions are: Major Capital Improvement charges added to the rent, and Individual Apartment Improvement charges added to the rent for work done to the apartment during your tenancy which the tenant must have consented to.

A. Rent-Stabilized Tenants

-Upon renewal, the landlord can increase your rent but only by a percentage set by the Rent Guidelines Board. Check the Rent Guidelines Board website to view the RGB increases for the month and year of your lease renewal, in addition to past RGB-permissible increases

<https://rentguidelinesboard.cityofnewyork.us/rent-guidelines/apartment-loft-orders-explanatory-statements/>

-Your security deposit amount increases at the same percentage as each lease increase option you choose. However, it differs from a rent increase in that you pay a security deposit increase only once at the beginning of a renewal lease term. For instance, if your security deposit amount was \$1000 which matched your rent of \$1000, and upon lease renewal you chose a 1 year option that would raise your rent 1.0% for the next year, your rent as well as your security deposit would be \$1,010. You would be obligated to pay the difference between \$1,000 and \$1,010, \$10, to keep your security deposit current.

B. Unregulated Tenants

Q: Can my landlord charge whatever they want if I don't have rent regulation?

A: Technically, without rent regulation, a landlord may set the rent at whatever price they wish, and may raise the rent however they wish. However, you still have rights as an unregulated tenant. The HSTPA of 2019 dictates that under RPL 223-b, an offer to renew a lease with an unreasonable rent increase **may constitute retaliation**. This provision isn't applicable to owner-occupied units of 3 or less.

EVICTIION

1- DURING COVID-19

Q: Can my landlord start an eviction case against me during the COVID-19 shutdown?

A: No. No new eviction cases can be filed at this time as filings are not being accepted for anything besides emergency proceedings. However, rent is still legally collectible, and when the emergency is over and courts reopen, the landlord will be able to file a housing court case to recover the rental arrears.

Q: I had a judgment entered against me in an eviction case before the shutdown. Can I be evicted during the shutdown?

A: No, evictions have been suspended until at least **August 20, 2020**, even if you had a judgment against you prior to the shutdown. However, as of June 20, 2020, it might become possible for landlords to begin a nonpayment proceeding against their tenants for nonpayment of rent anyway. Under Governor Cuomo's most recent Executive Order, the eviction moratorium extension only applies to tenants who can affirmatively prove that they experienced financial hardship due to COVID-19.

If your eviction's stay of execution expires during the shutdown, closely monitor the court's website and news to confirm when the court opens again, as you will need to file an order to show cause at that time. However, if you are served with a notice of eviction now, call DOI's Bureau of City Marshals at (212) 825-5953.

Q: If Housing Court is closed, can my landlord evict me without a court case?

A: A landlord can never evict a tenant in New York State without a court case through means such as changing the locks, etc. However, if you are illegally locked out by your landlord, you should call 911 and report that you have been illegally locked out. If they cannot help you, immediately go to Brooklyn Supreme Court and file an emergency illegal lockout petition to be restored to the apartment. You should be given a prompt court date and may be able to receive legal assistance to be restored to your apartment. Call a legal services provider if the court does not connect you with one.

Q: What if I have an eviction case pending against me?

A: If a nonpayment case was commenced against you prior to March 16, 2020, your case will not be heard until the Court reopens. Your case will have been administratively adjourned and you should get a postcard in the mail. If a new case was started against you before March 16, 2020, you should file an Answer as soon as the Court reopens. Check for updates on the NYC Courts website <https://www.nycourts.gov/courts/nyc/housing> or call 718-618-2500.

2-OUTSIDE OF COVID-19

Q: Can not paying my rent hurt my credit?

A: The simple answer is not really. In order to report missed rent payments to credit reporting agencies, a landlord generally must take a tenant to court to recover the money first. A judgement against a tenant can negatively affect their credit. However, given that courts are closed, it's not completely certain that LLs won't report credit as an alternative-but it won't solve their problem of not getting rent paid. Landlords generally want to solve their problem of having non-paying tenants by getting them out, not temporarily recovering money just to risk losing it again.

Q: Can my landlord collect my missed rent payments from my guarantor?

A: Under normal circumstances, the answer would be maybe. A landlord may contact a guarantor about missing rent at any time. However, during COVID-19, because the courts are closed in New York State, a guarantor cannot be sued if they also live in NYS. Technically, if the guarantor lives in another state where courts are open, the landlord could sue for the money in that state, but that would be a larger undertaking for a landlord.

Q: Can not paying rent hurt my future ability to rent in the city?

A: Per the HSTPA of 2019, it is now illegal for landlords to report their tenants to the "tenant blacklist" and for landlords to use the "blacklist" to vet potential future tenants. However, if you think you have been added to the list, you should contact the Attorney General's office to report it.

REPAIRS DURING COVID-19

Q: Can I still get repairs during COVID-19?

A: Yes. However, Housing Court is only accepting narrowly defined emergency cases at this time and it may be difficult to compel your landlord to make repairs that aren't considered emergencies. Property owners have been given guidance by HPD to perform special cleaning at their properties according to CDC guidelines. **YOU SHOULD REPORT ALL REPAIR ISSUES TO LANDLORD IMMEDIATELY IN WRITING AND FOLLOW UP BY CALLING 311 IF THEY DO NOT REPLY WITHIN 7 DAYS.** Especially report egregious violations such as no gas, no heat/hot water, and mold-these are Warrant of Habitability conditions that could qualify you for a rent abatement.

Q: What are considered emergency repair conditions during the COVID-19 shutdown?

A: Heat, hot water, vacate orders, and lead violations are considered “emergencies”. Call 311 immediately as emergency repair issues come up, and notify your landlord of any repair issues in writing. HPD is currently restricting inspections to “the most serious conditions” and may not come to inspect your apartment to place violations or assess a condition as an emergency.

You may file an emergency Housing Part action against your landlord for serious conditions. One way to do this is through JustFix’s pro-se HP Generator: <https://app.justfix.nyc/ehp/splash>. You might also want to reach out to local legal services providers for assistance with addressing emergency conditions: Legal Aid Society, Legal Services NYC, Movement for Justice, Urban Justice Center, etc.

Q: A vacate order has been issued in my building. What should I do?

A: If you have been displaced from your home as a result of a vacate order or a fire incident and need shelter, call the American National Red Cross at the following numbers: 1-800-REDCROSS (733-2767) or 1-877-REDCROSS (733-2767).

Q: Where can I have my questions answered about landlord-tenant issues?

Contact Housing Court Answers Monday through Friday if you have an emergency repair issue at 212-962-4795. Otherwise, contact client hotlines for legal services providers in your borough.

Q: My landlord wouldn’t make repairs before COVID either. What can I do?

A: First, make sure you have reported in writing the problems in your apartment to your landlord. You should also call 311 to report violations as they come up-however, during COVID, inspectors have discretion over whether or not they will inspect. You can escalate and start a Housing Part action against your landlord in Housing Court. One great resource that will help you fill out all of the necessary paperwork can be found here: <https://app.justfix.nyc/en/ehp/splash>.

HPs, as they are called, are best done in a group, so consider getting together with others in your building to file a group case against your landlord. If you are pursuing this route, contact a local no-fee legal services provider for help-they will often be able to take your case. The Court will most likely have you and the landlord/landlord’s attorney create an access date schedule to get the work done. Any follow up appearances will be to check on the status of repairs and to schedule more access dates as necessary.

FEES

Q: When and how much can my landlord charge in late fees?

A: Per the HSTPA of 2019, your landlord can only charge you late fees for late rent 5 days or later after it is due. They can only charge you 5% of your total monthly rent or \$50, whichever is less. If your lease says otherwise, the law trumps your lease. If you do not pay a legal or an exaggerated late fee, your landlord cannot file a complaint in housing court to collect these

unpaid late fees. They must sue for the money in small claims court, and the likelihood of a landlord suing for \$50 or 5% of the rent, whichever is less, is small.

Q: Can my landlord charge me legal fees?

A: A landlord can only charge a tenant legal fees if the tenant has lost a proceeding against them and a judge has ordered the legal fees be paid by the tenant. A landlord cannot simply collect legal fees without a court case against the tenant and a judge ordering the fees paid.

Q: Can my landlord charge me late fees for missing rent payments during COVID-19?

A: Under Governor Cuomo's executive order as of May 8, 2020, no late fees can be charged by landlords for missed or late rent payments during the shutdown.

RETALIATION AND HARASSMENT

Q: What is landlord-to-tenant harassment?

A: "Harassment" is any act or failure to act by a landlord or a landlord's agents that causes or is intended to cause any person legally entitled to live in a room or apartment to give up their room or apartment, or any rights related to their tenancy. In New York State, tenant harassment can be a felony or misdemeanor. In New York City, tenant harassment is also a housing code violation, and tenants can sue their landlord in Housing Court if they are being harassed.

Q: What can landlord-to-tenant harassment look like?

A: Civil harassment may include:

- Using force or threats of force
- Interrupting essential services: heat, hot water, electricity, gas, etc.
- Bringing repeated baseless court cases
- Removing a tenant's belongings from their apartment or room
- Removing the front door from the apartment or room
- Breaking or changing the locks on doors without supplying new keys
- Making repeated contact about giving the tenant something of value if the tenant moves out
- Requiring or preventing a tenant from seeking medical help
- Requesting ID that would disclose citizenship status when the person has already provided current government identification

Criminal harassment may include:

- Any conduct that impairs the habitability of a housing unit
- Conduct that creates or maintains a condition which endangers the safety or health of tenants

- Conduct likely to interfere or disturb, or is intended to disturb the comfort of a person legally entitled to live in an apartment or room
- Conduct intended to or that causes physical injury to tenant or a third person

Additionally, HSTPA of 2019 dictates that under RPL 223-b, an offer to renew a lease with an unreasonable rent increase **may constitute retaliation**. This provision isn't applicable to owner-occupied units of 3 or less.

ILLEGAL UNITS

Q: How can I tell if I live in an illegal unit/room?

A: If you answer yes to any of the following questions, your unit may be illegal:

- Is your bedroom in the cellar? (A cellar has at least half its height underground; ceilings are 7.5 feet high or less, not more than one fire egress)
 - Do you live in the attic?
 - Do you get electricity with an extension cord?
 - Do you lock your room with a padlock?

Q: What can I do if I am living in an illegal unit?

A: If you suspect an illegal conversion call 311 to have a Buildings Inspector routed to the site to inspect the property. You can also check the legal use of a building by visiting the Department's website and viewing the building's Certificate of Occupancy through the Department's [Buildings Information System](#). However, there are consequences to residing in these spaces and reporting them-read below.

Q: What are the consequences of living in an illegal unit?

A: If you are living in an illegal unit or room and you report it to the DOB or the Division of Housing, Preservation and Development, **you may be effectively displaced from the unit due to a vacate order placed by the city**, even if it is not your fault or you didn't know, because you are technically not allowed to reside there. This could force the Landlord to legalize the unit and allow you to return, but timelines for such construction work vary and sometimes could be impossible. To learn more about vacate orders, you can consult the DOB website <https://www1.nyc.gov/site/buildings/renter/vacates.page>.

In practice, it could restrict tenants from being able to call 311 and report repair issues to HPD, because HPD could notice the building violation and contact DoB for an inspection, which could lead to displacement of a tenant.

LEGAL HELP HOTLINES

Legal Services NYC Access Line: M-F 10AM to 4PM 917-661-4500

Legal Aid Society Law Unit Helpline: M-f 9AM-5PM 844-955-3425

**Housing Court Answers: Tuesdays, Wednesdays, and Thursdays, 9am to 5pm
212-962-4795 (NYC only)**

Tenants' Rights Telephone Hotline (NYC)

Met Council on Housing: 1-212 979-0611

Mondays and Wednesdays 1:30pm to 8:00pm. Fridays 1:00pm to 5:00pm.

TakeRoot Justice: 929-506-0303

Right to Counsel <https://www.evictionfreenyc.org/en-us/>