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LEGAL SERVICES
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Homelessness Prevention Project

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Homelessness Prevention Project (HPP)

A Project of:

**Central California Legal Services, Inc.
2115 Kern Street, Suite 200
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HABITABILITY AND REPAIR





LANDLORD'S DUTY OF HABITABILITY?

A landlord has a duty for the property to be “habitable”

- Habitability has a very specific definition
- Included items can be found in Civil Code 1941.1
- What to do if there's a breach will be covered in repairs





WHAT'S INCLUDED IN HABITABILITY?

- Effective weather protection of all walls, doors, and windows
- Plumbing or gas facilities that comply with law and are in good working order
- Working HOT and COLD water
- Heating that works and complies with applicable law





HABITABILITY (CONT.)

- Electricity that works and complies with law
- Clean and Maintained Common Areas
- Garbage and Trash Containers
- Floors, stairways, and railings in good repair





MORE ON DUTY OF HABITABILITY

- Duty of Habitability is a very specific list that does not include everything
- Easy Example: Airconditioning is not covered by the Duty of Habitability
- Duty of Habitability is separate from contractual obligations
- Landlord can contract to repair and cover more repairs
- Read your contract for more details on what the landlord has separately agreed to cover





WHAT IF MY HOME ISN'T HABITABLE?

Your landlord must make all needed repairs if they charge you rent.

- Request repairs in writing
- Contacting Code Enforcement is recommended if they do not perform repairs
- If your landlord goes after you for contacting CE, then they are retaliating against you





REPAIRS

If you need something repaired and your landlord has a duty to repair it either through the Duty of Habitability or through your lease agreement, then your landlord **SHOULD** repair it

- Contact your landlord with the request for repair in some type of WRITTEN form
- Keep copies of these written requests
- Take pictures of all issues





IF LANDLORD DOESN'T REPAIR

If after waiting a reasonable time your landlord either doesn't respond or doesn't actually commit to the repairs, you are left with 3 options:

- For breaches of the Duty of Habitability, you can withhold rent (NOT RECOMMENDED)
- Make the repairs and deduct the cost from the rent (NOT RECOMMENDED)
- Sue your landlord to make the repairs
- All options require waiting a “reasonable” amount of time for landlord to fix the issue





WITHHOLDING RENT (NOT RECOMMENDED)

- Limited to breaches of Duty of Habitability only
- Burden heavily against tenant unless they have a CE report about the issue
- Only active as an affirmative defense to an Unlawful Detainer
- Puts you at risk for an eviction on you record, removal from the property, and cannot know ahead of time if you will win





DEDUCT AND REPAIR REQUIREMENTS (NOT RECOMMENDED)

- Has limitations and requirements of its own
- You can't spend more than one month's rent on the repair
- You can't use this remedy more than twice in any 12-month period
- You can't have caused the problem and it can't be something that is your responsibility





DEDUCT AND REPAIR STEPS (NOT RECOMMENDED)

- Request repair in writing
- Give a reasonable amount of time for Landlord to address the issue
- Recommended you send a follow up request specifying your intent and explaining everything
- Keep receipts of all costs involved
- Reminder: Cannot deduct more than 1 month's rent





DEDUCT AND REPAIR ISSUES (NOT RECOMMENDED)

- Similar issues as withholding rent
- Can only be used as an affirmative defense in an Unlawful Detainer
- Exposes you to the risk of having an eviction on your record and being removed from the property





SUING YOUR LANDLORD FOR REPAIRS

- Safest course of action
- No risk of eviction based on case
- If you win, judge will give order to repair and landlord will be liable to complete the repairs or be in violation of a court order
- Can bring in a lot more facts, sometimes, than the often much more limited context of Unlawful Detainer





STEPS TO SUING YOUR LANDLORD FOR REPAIRS

- Must first send a demand letter requesting the repairs
- Explain all the issues in the demand letter as it will very likely go before the judge
- Give landlord a reasonable amount of time to start taking steps for repairs
- If no response or the landlord is acting unreasonable, then you will want to file your case





STEPS TO SUING YOUR LANDLORD FOR REPAIRS (CONT.)

- Unless there is a large amount of money involved, likely you will be filing in Small Claims
- When calculating damages, take into consideration all issues that are related, including lost working hours, additional medical costs, a small portion of the rent and other costs you can think of
- Do not expect to get all of those costs back
- If amount is less than \$10,000 then you should file in Small Claims, otherwise you should find an attorney to file in Civil Limited





SUING YOUR LANDLORD FOR REPAIRS SMALL CLAIMS

- Most courts have a Small Claims Advisor for assistance
- Primary goal is to get an order from the judge for the relevant repairs
- Original letter that you sent should explain things but provide copies of other documents
- Recommend 3 copies of any document in court: one for the judge, one for the opposing side, and one for yourself





QUESTIONS AND ANSWERS

Call our Legal Advice & Referral Line: (800) 675-8001, ext . 1298 for HPP





THANK YOU FOR JOINING US!

Central California Legal Services

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