

DOES YOUR RENTAL HOME NEED REPAIRS?

Prepared by Jacksonville Area Legal Aid, Inc. ("JALA")
a United Way agency



The information provided in this document is not a substitute for legal advice. The laws described here may change without notice.

*** This brochure is written specifically for tenants in Duval County. If you live in another county, you should seek advice from JALA or another attorney because your landlord may not have all of the responsibilities listed below.**

WHAT IS THE LANDLORD'S RESPONSIBILITY TO THE TENANT?

Florida law requires landlords in Duval County to comply with Jacksonville's Property Safety and Maintenance Code. This means, among other things:

1. The roof must not leak;
2. The walls must be weather-tight, and in good repair;
3. The stairs must be safe for normal use and maintained in good repair;
4. Windows and doors must be basically weather-tight, water-tight, rodent-proof, and kept in sound working condition, and outside doors must have proper locks;
5. Window panes cannot have cracks and holes, and outside windows must have screens;
6. Inside floors, walls, ceilings must be basically rodent-proof and kept in sound condition and good repair, and should be safe;
7. The house or apartment must have hot water, which is connected to the kitchen and bathroom sinks, tub or shower;
8. All houses or apartments must have a flush toilet in good working condition;
9. When cooking and heating equipment are provided by the landlord, they must be safely installed and in good working order;
10. There must be adequate garbage disposal facilities or garbage storage containers;

11. Every habitable room must have at least two separate floor or wall electric outlets and, additionally, every kitchen, bedroom, bathroom and hallway must have a ceiling or wall-type fixture, or an outlet controlled by a wall switch near the entrance to the room; and
12. All electrical systems must be in good repair and good working order.

Your landlord is also required to comply with your lease (if you have a written lease), and your lease may add to your landlord's responsibilities under the Jacksonville code. For example, the Jacksonville code does not require landlords to provide air conditioning, but your lease may require your landlord to provide and maintain air conditioning equipment in your rental home. Your landlord must comply with your lease, even if it places more responsibilities on your landlord than the law does.

ARE THERE ANY EXCEPTIONS?

Yes. The landlord is NOT responsible to the tenant for:

1. Conditions caused by the negligence or wrongful action of the tenant, a member of the tenant's family, or another person on the property with the tenant's consent; or
2. Maintaining a mobile home or other structure that is owned by the tenant.

Also, if you rent a single-family house or a duplex (not an apartment) and if you have a written lease, your landlord may not have all of the responsibilities listed above. If you rent a single-family house or a duplex, it is very important for you to read your lease carefully because it may require you, the tenant, to make any repairs that are needed during the term of your lease. (But if you live in an apartment, the landlord may not shift his/her responsibilities to you in the lease.)

WHAT IS THE TENANT'S RESPONSIBILITY TO THE LANDLORD?

Florida law requires tenants in Duval County to comply with Jacksonville's Property Safety and Maintenance Code. This means the tenant must, among other things:

1. Keep the house or apartment in a clean and sanitary manner;
2. Remove all garbage from the house or apartment in a clean and sanitary manner (for example, use garbage cans);
3. Keep all plumbing fixtures in the house or apartment used by the tenant in a clean and sanitary manner and in good repair;
4. Properly use and operate all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances, including elevators, which are in the apartment or house;
5. Not destroy, damage or in any way misuse the property itself (or allow any guest to destroy or damage the property);

6. Not remove anything from the house or apartment which does not belong to the tenant (for example, the tenant cannot remove light fixture that was in the property when tenant moved in); and
7. Conduct him/herself and require all guests to conduct themselves in a way that does not disturb the peace.

HOW CAN I KNOW IF MY LANDLORD IS COMPLYING WITH THE LAW?

If you believe your landlord is not complying with the law, you should call Jacksonville's Municipal Code Compliance Division at 255-7000 or 630-CITY (630-2489) to request an inspection of your rental home. The City will do an inspection to see if the home is in compliance with the Jacksonville code. If the City finds code violations that are your landlord's responsibility, both you and the City may take action. See the next section, below, for the action you may take as a tenant. If there are code violations, the City will notify your landlord of the violations and schedule another inspection (usually 30 days after the initial inspection). If your landlord does not correct the code violations before the next inspection, the City may begin to impose fines or other penalties on your landlord.

You should always ask the City for a copy of its inspection report so that you will have documentation of any code violations. It is also a good idea to take your own pictures of the problem area(s) and make a note of the date and time when you took the pictures.

WHAT CAN I DO IF MY LANDLORD IS NOT MEETING HIS/HER RESPONSIBILITIES?

If your landlord is not meeting his/her responsibilities under the law and/or under your written lease, and if the problem is significant (not just a minor inconvenience or annoyance to you), then you have the right under Florida law either to:

1. Withhold your rent until repairs are made; or
2. Terminate your lease and move out without any penalty.

(Both of these options are discussed below.)

However, you must follow the law carefully in order to be protected. You must give your landlord a written notice before you withhold rent or terminate your lease. Your written notice must list the problems, give your landlord seven (7) days to fix the problems, and state which action you will take (withhold your rent or terminate your lease) if the problems are not fixed.

If you are going to give your landlord a notice to withhold your rent or terminate your lease, it is best to use one of the court-approved forms. The forms are available in JALA's office and on JALA's website. If there is not enough room on the form for you to list all of the problems in your rental home, you may write something like, "see the attached list of code violations provided by the City," and then attach a copy of the City's inspection report to your notice.

Your notice may be hand-delivered or mailed to your landlord. If you mail it, you should use certified mail and request a return receipt. You should keep a copy of any notice you give your landlord. If you send it by mail, you should also keep some proof of mailing.

If your landlord does not fix the problems within seven (7) days after you deliver your notice, you may continue to withhold your rent until the problems are fixed, or you may terminate your lease (depending on what your notice said you would do). If your landlord does fix the problems within seven (7) days after you deliver your notice, you may not continue to withhold your rent or terminate your lease, but you may negotiate with your landlord to pay a reduced amount of rent for the period of time when there were problems in your rental home.

* Note: **Florida law does NOT give you the right to simply pay for the repairs yourself and then deduct the cost from your next rent payment.** Unless your landlord specifically agrees to something like that, your options are to withhold your rent or to terminate your lease after giving the proper notice.

WHICH SHOULD I DO: WITHHOLD MY RENT, OR TERMINATE MY LEASE?

It really depends on your specific situation. Both options have their own risks, and those risks are discussed below. Terminating your lease is the more extreme action to take, so that option should usually be saved for the more severe cases or for cases where you have already withheld your rent and your landlord still refuses to make the repairs that are needed.

The information below may give you some general guidance, but to get advice for your specific situation you should apply for assistance at JALA or contact another attorney.

SPECIAL NOTE FOR SECTION 8 TENANTS

If you are on the Section 8 Voucher Program and the Jacksonville Housing Authority pays a portion of your rent, you should seek advice from JALA or another attorney before withholding your rent or terminating your lease. The Housing Authority has its own property inspectors and its own procedures for making sure landlords comply with the Section 8 property standards. If you do not follow those procedures, you could lose your Section 8 assistance. The first thing you should do is notify your Section 8 caseworker (in writing) of any problems you are having in your rental home, and ask for an “audit inspection” of your home.

WHAT SHOULD I DO WITH MY RENT IF I WITHHOLD IT?

If you withhold rent after delivering a written 7-day notice to your landlord, you should keep the rent money in your bank account or in another safe place. DO NOT SPEND THE RENT MONEY ON OTHER THINGS. YOU MUST HAVE IT AVAILABLE, and you must be ready to pay it to your landlord if he/she fixes the problems or to deposit it in court if your landlord files an eviction case

against you. If an eviction case is filed and you do not deposit the unpaid rent in court, you may lose the case automatically, without any chance to present your defense(s) to the judge.

CAN MY LANDLORD EVICT ME FOR WITHHOLDING MY RENT?

Your landlord might file an eviction case against you for withholding your rent. But if you have properly withheld the rent after giving your landlord a written 7-day notice, and if you follow the steps for responding to the Eviction Summons and Complaint, it should be very difficult for your landlord to win the eviction case.

If you properly withheld your rent because your landlord was not complying with the law or with your lease, you will have a complete defense to an eviction case. You may also be able to raise the defense of “retaliation.” In Florida, it is unlawful for a landlord to try to evict a tenant in retaliation for the tenant’s complaints about code violations or other problems that are the landlord’s responsibility.

IF MY LANDLORD TRIES TO EVICT ME, WHAT SHOULD I DO?

See JALA’s brochures titled “Tenant Rights When Served with an Eviction Notice” and “Eviction for Unpaid Rent.”

If you receive an Eviction Summons and Complaint from the court, you will need to read it carefully. You will be required to do two things:

1. File a written “Answer” in court. In your Answer, you respond to the allegations in your landlord’s Eviction Complaint and you set forth your defenses (the reasons why you should not be evicted). Your Answer should explain why you withheld your rent, and you should attach a copy of the 7-day notice you delivered to your landlord before withholding your rent.
2. Deposit your unpaid rent into the court’s registry. You must do this even if you properly withheld your rent, and even if you have a good defense to the eviction case. Your landlord’s Eviction Complaint should contain a statement of the amount of rent that has not been paid. If your landlord has stated the correct amount, you must deposit that amount in court. If your landlord has not stated the correct amount, you must deposit the correct amount of unpaid rent and add to your Answer a “Motion to Determine Rent.” In your Motion to Determine Rent, you explain why your landlord is incorrect about the amount of unpaid rent and why the amount you are depositing into the court’s registry is the correct amount. If you file a Motion to Determine Rent, you must attach supporting documentation.

If you do not file your Answer and deposit your unpaid rent in court within five days after being served with the Eviction Summons and Complaint, you may lose the case by default and be evicted.

Once you have filed your Answer and deposited your rent in court, you will wait to receive a notice of your court date. If rent comes due again before you go to court, you must deposit the rent in court, instead of paying it to your landlord.

When you go to court, you will need to present evidence to show the judge that you properly withheld your rent and that you should not be evicted. Your evidence might include:

- a copy of the 7-day notice you delivered to your landlord before withholding your rent;
- a copy of the City's inspection report that lists the code violation(s) in your rental home;
- pictures of the problem(s) in your rental home;
- witnesses (family members, friends or City inspectors) who have seen the problem(s) in your rental home;
- any retaliatory statements made by your landlord after you notified him/her of the problem(s) in your rental home;
- your written lease (if you have one); and
- any/all other documents relating to your rental home and the dispute with your landlord.

If the judge agrees that you properly withheld your rent and that you should not be evicted, he/she will then decide what to do with the rent money you deposited in court. Depending on how bad the problems were and how long they existed, the judge might give some or all of the rent money back to you.

WHAT HAPPENS IF I TERMINATE MY LEASE?

If you have given your landlord a 7-day notice that says you will terminate your lease, and if the repairs are not made within seven (7) days, you may consider your lease terminated and move out of the rental home. You should not delay for a long time. You should move your belongings out of the home and turn in your keys to your landlord soon after the seventh (7th) day. If you do not move out soon after the seventh (7th) day, you might lose some of your rights.

If you properly terminated your lease because your landlord was not complying with the law or with your lease, you should not be charged any fees or penalized by your landlord in any other way. However, you should be aware that it does not always work as it should. Landlords often dispute tenants' reasons for terminating a lease, and they often try to penalize the tenants.

You should be aware that if your landlord does not agree that you have a legal basis for terminating your lease early, your landlord might charge you an "early lease termination" fee or continue to charge you for rent after you leave. And landlords usually do not sue tenants for these fees because then the landlord would have to prove to a judge that the fees are valid, and the tenant could win the case by proving that he/she had a legal basis for terminating the lease. Instead, landlords usually just report these fees to the credit bureaus because the credit bureaus do not require any proof that the fees are valid. This means that even if the tenant had a legal basis for terminating the lease, and even if the tenant did it properly, he/she still might end up with charges appearing on his/her credit report. This is not supposed to happen, but sometimes it does. All of this is why terminating your lease is considered the more extreme action to take, and why it should only be done in the more severe cases.

You should seek advice from JALA or another attorney before terminating your lease.

If you terminate your lease, you should keep all of the documentation listed at the top of page 6, above. You will need documentation if your landlord challenges your right to terminate the lease.

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You may contact JALA's main office in downtown Jacksonville by calling (904) 356-8371.

If you are a qualified individual with disability, you may request a reasonable accommodation / auxiliary aid at no charge to you by contacting the JALA ADA Coordinator at (904) 353-1320 (V/TTY) or (904) 245-1121 (Video Phone).