

Tenant Rights:

Repair and Deduct - What to do if your home needs repairs

This brochure describes what you need to do to get your home repaired and livable based on your rights under the Residential Landlord- Tenant Code, HRS Section 521-64, -65. This brochure may be helpful if:

- you are renting your home from a private landlord and/or receive Section 8 assistance; AND
- your rental unit needs repairs.

If you are being evicted too, talk to a Legal Aid advocate before filling out this packet.

IMPORTANT NOTE: If you live in public housing (Hawaii Public Housing Authority, HPHA), this packet will not work for you. If you need repairs in your public housing unit, you must first contact your public housing management office. You must write a letter requesting repairs but you cannot deduct the costs from your rent.

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My unit needs repairs. What can I do?

If you are renting from a private landlord, you have a right to request that your landlord make repairs to your rental unit. If your landlord does not make the necessary repairs after you properly request them, you can deduct up to \$500 per month in repair costs from your rent. When you deduct repair costs from your rent, it is called a “repair and deduct.” There is a very specific process that you must follow when you do a “repair and deduct.”

YOU MUST NOT STOP PAYING RENT SIMPLY BECAUSE A REPAIR IS NEEDED OR YOUR LANDLORD DOES NOT RESPOND TO YOUR REPAIR REQUESTS. IF YOU DO NOT PAY YOUR RENT, YOUR LANDLORD CAN TAKE YOU TO COURT TO EVICT YOU.

What if I caused the damage? Can I still use repair and deduct?

If the damage was caused by you, someone you live with, or someone that you allowed into your unit, your landlord does not have to make the repairs. In this situation, a repair and deduct would not be appropriate. You will probably have to pay for the repairs by either having the damage repaired OR your landlord can deduct the damage from your security deposit when you move out.

I. How do I Start the Repair and Deduct Process?

1. Write a Letter

First, you must write a letter requesting that your landlord make the repairs. If you have an emergency repair, you can give your landlord oral notice, but it's a good idea to follow up in writing because oral communication is hard to prove. See the sample letter at the back of this brochure to see what your letter will look like.

In your letter, be specific about the repairs needed and keep a copy of the letter for your records. After your landlord receives your letter or notice of emergency repair, repairs must begin 3 or 12 business days later, depending on the seriousness of the repair. (See the text box on page 2 for a description of these deadlines.) It is also a good idea to call your landlord to request the repairs. A phone call may speed up the repair process.

To make sure that your landlord received your letter, you should send your letter by one of the following methods: (1) certified mail with a return receipt requested (costs about \$3.00; the post office will have your landlord sign for the letter and you will get a card mailed back to you with your landlord's signature), OR (2) hand-delivering the letter with someone who witnesses your delivery and/or. (3) your landlord signs a letter saying that s/he received the letter.

The Six Months Rules

Be aware that two rules apply to the repair and deduct process.

1. When you write your repair request letter to your landlord, you should list everything that needs to be repaired. If you miss anything, your landlord will not be required to repair anything not listed in your letter for the next six (6) months. However, if a problem arises after you send your letter, this six-month rule does not apply and you can request repairs at any time.

Deadlines: how long do i need to give my landlord to start the repair?

Emergency Repairs: the landlord must begin to fix emergency repairs *three (3) business days* after s/he receives your written (or oral) request.

Emergency repairs include: electrical, plumbing, and major appliance repairs (e.g., stove, water heater, refrigerator, etc.) or anything that is needed to keep your rental unit sanitary and habitable.

Ordinary Repairs: the landlord must begin to fix ordinary repairs *twelve (12) business days* after s/he receives your written request (oral requests will not start the 12 day period).

Ordinary repairs include: a broken door, ripped window screen, cracked floor tiles, etc.

Health & Safety Repairs: the landlord must begin to fix health and safety repairs *five (5) business days* after s/he receives notice of the violation from a state or county agency. See instructions on page 4 for details.

Business Days are non-holiday weekdays. Weekends and holidays are not included. Note that the 3- or 12-day period begins only after the landlord *receives* your notice.

II. What Happens If My Landlord Doesn't Meet the Deadline?

If your landlord does not obtain a deadline extension (see previous page) OR does not begin the repairs within the required 3- or 12-day period, you can arrange for the repairs to be done and deduct the costs, up to \$500, from your next rent payment.

1. Immediately arrange for the repairs. After the 3- or 12-day period, you can have the repairs done.
2. Submit all the receipts for your costs to your landlord. Deduct the repair amount from your rent. The maximum for one month is \$500. You must have receipts for all costs that you deduct from your rent.

III. Can I Fix Things Myself When I Use the Repair and Deduct Process?

Yes, as long as the repairs are professional and of “workman” quality. To be compensated, you must follow all the repair and deduct steps, including keeping receipts for supply costs and labor.

IV. What if Part or all of my Rental Unit Has Been Damaged and I can no Longer Use it?

If you are unable to use your unit because of damage or fire, and you did not cause the damage, you can:

- (1) immediately move out AND notify your landlord within one week to end your rental contract, OR
- (2) vacate the part of your rental unit that is damaged and unusable and be responsible to pay rent for no more than the fair rental value of the remaining part of the rental unit that you live in.

IV. What if my Rental Unit Has Health/Safety Problems?

- (1) Do a repair and deduct. Immediately make the necessary repairs, submit your receipts, and deduct the costs from your rent up to \$500 for one month, OR
- (2) Write the landlord a letter, at least 5 business days before the work begins, with written signed estimates from two qualified professionals. Your landlord can request that you use a substitute. If s/he does not make a substitute request, you can have the repairs done using the lowest-costing professional. When you give your landlord the receipts, you can deduct up to \$500 or one month's rent, whichever is greater, for the expenses.
- (3) For serious health and safety violations, you may vacate on an emergency basis. We advise you to speak with Legal Aid before you do this.

REMEMBER: This pamphlet is meant to give you general information and not to give you specific legal advice about your case. The law often changes. Each case is different.

For more information or assistance call Legal Aid at 1-800-449-4302

or access additional information at <http://www.legalaidhawaii.org>.

Sample Letter Requesting Your Landlord Make Repairs to Your Rental Unit

Your Name

Address

Date

Your Landlord's Name

Landlord's Address

Dear *Your Landlord's Name*,

I live in your rental unit at *your rental unit address and apartment number, if any*. I will try to reach you by phone today, but I wanted to be sure you received a list of my repair requests in writing.

LIST THE NEEDED REPAIRS: For Example:

- 1. The screen next to my kitchen door is torn and needs to be replaced.*
- 2. The kitchen faucet cannot be completely turned off and is constantly dripping.*

I would appreciate it if you could start the repairs as soon as possible. If you cannot begin the repair within *3 days (for emergency repairs) or 12 days (for normal repairs)*, I will arrange for the repairs to be done, send you receipts for the repairs, and deduct the costs from my next month's rent. Please let me know if you have any questions or concerns. Thank you.

Sincerely,

sign your name here

To make sure that you have proof that your landlord received this letter, mail this letter by certified mail with a return receipt OR hand-deliver it in front of a witness or have your landlord sign for it.