



PREVENTIVE LAW SERIES
HABILITY & REPAIRS



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LANDLORD'S RESPONSIBILITIES

When a landlord rents a unit to a tenant, the unit must be in a habitable condition, or fit to live in. If the unit becomes uninhabitable, the landlord is required to repair the damage or problems unless the tenant, his guests, children, or pets have caused the damage. A residence may be considered uninhabitable if it substantially lacks any of the following:

1. Effective waterproofing and weather protection of roof and exterior walls, including unbroken windows and doors;
2. Plumbing facilities in good working order, including hot and cold running water, connected to a sewage disposal system;
3. Gas facilities in good working order;
4. Heating facilities in good working order;
5. An electrical system, including lighting, wiring, and equipment, in good working order;
6. Clean and sanitary buildings, grounds and appurtenances (detached garage or garden) free from debris, filth, rubbish, garbage, rodents, and vermin;
7. Adequate trash receptacles in good repair;
8. Floors, stairways, and railings in good repair;
9. A working toilet, wash basin, and bathtub or shower. The toilet and bathtub or shower must be in a room that is ventilated and allows for privacy;
10. A kitchen with a sink, which cannot be made of an absorbent material such as wood;
11. Natural lighting in every room through windows or skylights. Unless there is a ventilation fan, the windows must be able to open at least halfway;
12. Safe fire or emergency exits leading to a street or hallway. Stairways, hallways, and exits must be kept litter-free. Storage areas, garages, and basements must be kept free of combustible materials.
13. Operable deadbolt locks on the main entry doors of rental units, and operable locking or security devices on windows.
14. Smoke detectors in all dwellings with more than one unit, and in common stairwells in apartment complexes.

TENANT'S REMEDIES FOR LANDLORD'S FAILURE TO MAINTAIN PREMISES

A landlord's duty to maintain a habitable unit with the above features is called the Warranty of Habitability. If a landlord breaches the Warranty of Habitability, the law provides specific remedies for a tenant. First, a tenant may repair the defect and deduct the costs from the rent, up to the amount of one month's rent, in accordance with the specific necessary legal procedures to repair and deduct. Second, the tenant could sue the landlord for money damages, particularly in small claims court. Third, the tenant may withhold rent if the landlord does not fix serious defects that violate the implied Warranty of Habitability. Lastly, the tenant could simply move out without paying future rent.

NOTE: in all of these cases specific legal procedures and requirements are necessary, including written notice to the landlord before taking action. You should **CONSULT WITH AN ATTORNEY BEFORE YOU ACT TO MAKE SURE YOU FOLLOW ALL THE LEGAL REQUIREMENTS.**

TENANT'S RESPONSIBILITIES

A tenant has certain responsibilities as well. A tenant must take reasonable care of the unit and the common areas. The tenant must keep the unit in good condition and repair all damages that he, his guests, children, or

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pets cause. The following is a list of the tenant's responsibilities:

1. Keep the premises as clean and sanitary as the condition of the premises permits;
2. Use and operate gas, electrical, and plumbing fixtures properly;
3. Dispose of trash and garbage in a clean and sanitary manner;
4. Do not destroy, damage, or deface the premises, or allow someone else to do so;
5. Do not remove any part of the structure, dwelling unit, facilities, equipment, or appurtenances, or allow someone else to do so;
6. Use the premises as a place to live, and use the rooms for their proper and intended purposes; and
7. Notify the landlord when dead bolt locks and windows locks or security devices do not operate properly.

If the tenant fails to perform these duties he may not be able to require the landlord to repair damages. This may cause the unit to be uninhabitable. Additionally, the tenant may not require the landlord to repair the premises if the tenant substantially interferes with the landlord's ability to repair.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday from 0800 - 1100 and 1300 - 1500, Tuesday through Thursday from 0900 - 1100 and 1300 - 1500, and Friday from 0900 - 1045. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island - Coronado, Building 318 - Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

California Department of Consumer Affairs: www.dca.ca.gov; (800) 952-5210

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