



# Options When Your Landlord Won't Make Repairs

*PLEASE NOTE: You risk being evicted and suffering financial consequences if you improperly withhold rent or terminate your lease. Please ensure that you read this entire brochure.*

## HIGHLIGHTS TO REMEMBER

- ✓ IDENTIFY serious (not minor) violation of local code (building, housing, or health) before you withhold rent.
- ✓ CALL local code enforcement to document code violations and force repair.
- ✓ IDENTIFY serious (not minor) violations of state law if there are no local codes before you withhold rent.
- ✓ IDENTIFY serious (not minor) violation of your lease, or local code (building, housing, or health), or state law if there are no local codes before you terminate the lease.
- ✓ GIVE the landlord seven days to repair. Add five days if you mail the notice.
- ✓ DELIVER proper WRITTEN notice by mail or hand-delivery.
- ✓ KEEP copies of your notice, code enforcement reports, and other relevant documents.
- ✓ DON'T SPEND the rent money you withhold.

## Can I Withhold My Rent or Terminate My Lease?

Florida law allows tenants to either withhold their rent or terminate their lease if their landlord fails to comply with either:

- the requirements of applicable building, housing, and health codes; or
- where there are no applicable building, housing, or health codes, Section 83.51(1)(b), Florida Statutes.

## There are No Local Building, Housing or Health Codes in my Area. What Does Section 83.51(1)(b) Require?

Under Florida law, landlords must maintain:

- the roof
- doors
- steps
- exterior walls
- the plumbing
- windows
- floors
- porches
- foundation and structural components
- window screens

## What am I Responsible For?

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Florida law requires tenants to do the following:

- Comply with provisions of building, housing, and health codes that apply to tenants;
- Keep the house or apartment in a clean and sanitary manner;
- Remove all garbage from the house or apartment in a clean and sanitary manner (for example, use garbage cans);
- Keep all plumbing fixtures in the house or apartment used by the tenant in a clean and sanitary manner and in good repair;
- 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;
- Not destroy, damage, or in any way misuse the property itself (or allow any guest to destroy or damage the property);
- Not remove anything from the house or apartment which does not belong to the tenant (for example, the tenant cannot remove light fixtures that were in the property when the tenant moved in); and
- Conduct him/herself and require all guests to conduct themselves in a way that does not disturb the peace.

## Are There Exceptions?

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- If you rent a **single-family house** or **duplex**, your lease may place repair responsibility on **you** that is different from the above examples. If you rent a single-family house or a duplex (*not an apartment complex*), it is very important for you to read your lease carefully to see if it requires you, the tenant, to make any repairs that are needed during the term of your lease.
- Landlords are not responsible for repairing damage **negligently** or wrongfully caused by tenants. This includes damage caused by people other than the tenant who are on the property with a tenant or household member's permission.
- Landlords are not responsible for repairing structures owned by tenants such as **mobile homes**.

## What Can I do First if My Landlord is Failing to Make Required Repairs?

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If you believe your landlord is not complying with the law, you should call code enforcement to request an inspection of your rental home. Code enforcement will do an inspection to see if the property complies with local codes. If code enforcement finds code violations that are your landlord's responsibility, you may act.

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

If there are code violations, code enforcement 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, code enforcement may begin to impose fines or other penalties on your landlord.

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### What Are My Options if Code Enforcement Finds a Violation?

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If your landlord is not meeting their responsibilities under the law, and if the code violation in your rent home is **significant** (not just a minor inconvenience or annoyance to you), then under Florida law you have the right either to:

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

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### There are No Local Codes in my Area, Can I Still Withhold my Rent or Terminate my Lease?

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Yes, if your landlord fails to comply with the requirements of Section 83.51(1)(b), Florida Statutes.

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### How Can I Withhold My Rent or Terminate My Lease?

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1. You must follow the law carefully in order to be protected.
2. **WRITTEN NOTICE:** Before withholding rent or terminating your lease, you **must give your landlord a written notice.**
3. **USE A FORM NOTICE:** If you are going to give your landlord a written notice to withhold your rent or terminate your lease, use the form on **JALA's website:** <https://www.jaxlegalaid.org/get-help/self-help/pamphlets-videos/>, or the **Florida Bar approved form:** <https://www.floridabar.org/public/consumer/consumer004/#landlord>.
4. **SEVEN DAYS:** The written notice must list the **problems** with your rental, and it must give your landlord **seven (7) days** to fix the problems. If there is not enough room on the notice for you to list all of the problems in your rental home, you may write something like, "see the attached list." If there are code violations, attach a copy of the code enforcement inspection report to your notice.
5. **WITHHOLD RENT OR TERMINATE:** The written notice must state whether you intend to withhold your rent, or terminate your lease, or both.
6. **DELIVER AND KEEP COPIES:** Your notice may be hand-delivered or mailed to your landlord. If you mail your notice to your landlord, you must add an additional **five (5)**

**days** for mailing time (**total of 12 days**). 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 your landlord **does not** fix the problems within 7 days after you deliver your notice, you may withhold your rent until the problems are fixed, or you may terminate your lease (depending on what your notice said you would do). You must set aside and save the rent money that you withhold. **You may not withhold rent that becomes due before the 7 days expires. You may not withhold rent that is already past due.**

If your landlord **does** fix the problems within 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. Get the negotiated agreement in writing and keep a copy. You should pay the withheld rent or the reduced rent, as negotiated, upon the landlord fixing the issue.

\* **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, your options are to withhold rent or to terminate your lease after giving the proper notice.

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### Which Should I Do: Withhold my Rent, or Terminate my Lease?

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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 for violations under the law and your landlord still refuses to make the repairs that are needed.

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### Special Note for Tenants with Housing Vouchers

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If you have a Section 8 or other type of housing voucher and a 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. Housing authorities have their own property inspectors and their own procedures for making sure landlords comply with HUD's housing quality standards. If you do not follow those procedures, you could lose your voucher assistance. If your landlord won't make repairs, the first thing you should do is notify the housing authority (in writing) of any problems you are having in your rental home, and ask for an "audit inspection" of your home.

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### What Should I Do with My Rent if I Withhold it?

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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 they fix the problems or to deposit it into the court registry if your landlord files an eviction lawsuit against you. If an eviction lawsuit is filed and you do not deposit the unpaid rent into the court registry, you may lose the case automatically, without any chance to present your defense(s) to the judge.

## What if My Landlord Tries to Evict Me for Withholding Rent?

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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 in the Eviction Summons for responding to the Complaint, it should be very difficult for your landlord to win the eviction lawsuit.

If you properly withheld your rent because your landlord was not complying with the law, 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 that are the landlord’s responsibility.

## Are There Resources to Help Me Fight the Eviction Lawsuit?

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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.** If you need help drafting your Answer, go to [www.floridaevictionhelp.org](http://www.floridaevictionhelp.org). A guided interview will help you create a response to the eviction lawsuit.

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 code enforcement inspection report that lists the code violation(s) in your rental home (if applicable);
- pictures of the problem(s) in your rental home;
- witnesses (family members, friends or code enforcement inspectors) who have seen the problem(s);
- any retaliatory statements made by your landlord after you notified them 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 if I Decide to Terminate My Lease?

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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 (7<sup>th</sup>) day. If you do not move out soon after the seventh (7<sup>th</sup>) day, you might lose some of your rights.

If you properly terminated your lease because your landlord was not complying with the law, 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.

### How Could My Credit be Affected if I Terminate My Lease?

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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 on page 6, above. You will need documentation if your landlord challenges your right to terminate the lease.

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### What Can I Do if My Landlord Violates My Written Lease?

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**Your lease may place additional requirements on your landlord.** Your landlord is required to comply with your lease (if you have a written lease), and your lease may add to your landlord's responsibilities. For example, if there are no local building, housing, or health codes that require landlords to provide air conditioning, 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.

If your landlord is not meeting his/her responsibilities under your written lease, and the problem is **significant** (not just a minor inconvenience or annoyance to you), you have the right to terminate your lease and move without any penalty, even if the significant problem is not a code violation. You may also be able to file a claim for breach of contract and recover money damages against your landlord if you have been damaged by its failure to follow the lease.

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This fact sheet is for general education only it is not intended to be used to solve individual problems. If you have specific questions contact a lawyer. The laws described here may change without notice. You may find additional resources at: <https://www.jaxlegalaid.org/get-help/self-help/pamphlets-videos/>. Revised December 2023.

Clay County Legal Aid  
825 N. Orange Ave., Rm. 308  
Green Cove Springs, FL 32043  
(904) 284-8410

Jacksonville Area Legal Aid, Inc. (JALA)  
126 W. Adams St.  
Jacksonville, FL 32202  
Phone: (904) 356-8371  
[www.jaxlegalaid.org](http://www.jaxlegalaid.org)

St. Johns County Legal Aid  
222 San Marco Ave.  
St. Augustine, FL 32084  
(904) 827-9921