

# Upstate NY Tenants Rights Guide — Ithaca Tenants Union

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 [ithacatu.org/rights](https://ithacatu.org/rights)

## ITU's Upstate NY Tenants' Rights Guide

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Throughout all our housing work, one theme is incredibly consistent: landlords lie about housing law. Use this guide to know and assert your rights, in order to protect yourself and other tenants you are organizing with 🙌

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## **Building Issues & Maintenance**

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### **Our Rights**

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A landlord not repairing an appliance, heat, water, or safety issue violates your “Warranty of Habitability” as a tenant and is illegal, according to Real Property Law L Section 235-B.

"Warranty" means promise. "Habitable" means that the rental unit is a safe and decent place to live. **Any landlord who rents you a place to live must keep it in safe and decent condition, and must do needed repairs. This is true even if you do not have a written lease, are not paying rent, and/or if they claim it is your fault that the place is no longer habitable.** So if a landlord is trying to tell you they won't repair your sink because you broke it, they are acting against this warranty!

**Please see this document from the NY Courts System for a full list of common Warranty of Habitability violations.** There are lots! If anything on that list is happening in your apartment and you can prove the landlord was told (or should have known), but didn't fix it, **you are eligible for a rent reduction during the period where the Warranty was violated.** If you continued to pay rent during the violation, a court can award you a refund. Note that rent reductions cannot be granted if you're ruled to have caused the damage — which usually isn't the case.

According to this document published by the Attorney General, **“All repairs must be made within a reasonable time that may vary depending upon the severity of the repairs.”** “Reasonable” could be as short as 24 hours for urgent repairs like burst pipes or broken heat, or up to a week for less urgent ones.

These rights cannot be waived — they still apply if your lease says otherwise, or you don't have a lease.

### **When You Need Something Fixed**

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If you notice a problem with the apartment, tell the landlord as soon as possible, in writing. Ask when you can expect the work to be done — legally, **landlords have one week to respond to regular repairs, and in emergencies like broken heat or a burst pipe, they must respond as soon as possible.**

**Pressuring landlords to make repairs relies on having evidence that they knew something was wrong and didn't fix it.** So always put all requests for repairs in writing, even if you spoke to the landlord by phone or in person. Be sure to put your name,

address, and date on the letter, and to keep a copy (email and text allow this to happen automatically). Record all verbal communications if you feel you are not being treated properly — NY is a “one party state”, meaning that only one person in a conversation needs to know they are being recorded.

## When Your Landlord Ignores Your Complaints

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There are multiple steps you can take to address landlords not responding to your maintenance requests, and the necessary protocol will depend on the specific landlord and situation.

**If your landlord threatens OR tries to shut off (or not fix) your utilities or otherwise violate your Warranty of Habitability as an attempt to get you to move out, that is an illegal eviction attempt** according to Real Property Law section 768. It is a Class A Misdemeanor carrying fines of \$1,000-\$10,000 per attempt — if you can get evidence of your landlord doing this, you have a lot of leverage over them. Read more in our Eviction section.

### ORGANIZE

- Working together is far more effective than working alone! **Meet with, leave letters for, or otherwise contact your neighbors to see if they are facing similar problems** — more often than not, a landlord will act negligently towards many tenants. If your neighbors are not facing similar problems, it is possible the landlord is discriminating against you.
- **Contact your local tenants organization** to get connected to other tenants who share the same landlord, meet experienced organizers who can answer questions about rights and organizing, and distribute the work of winning the safety, funds, and dignity you deserve. Residents of Ithaca and the surrounding area can contact ITU’s Organizing Help Line.
- Lay out your options for creating leverage against the landlord together with your neighbors or other ITU tenants, like reporting them to inspectors, withholding rent, or publicly shaming them.

### REPAIR AND DEDUCT



If the repair you need is something simple, you may want to do it yourself. You can also pay someone else to do it. According to [Katurah Corp v. Wells](#), **you can legally pay for a repair or working appliance, and then deduct the cost from later rent payment(s)**. If you do this, be sure to:

1. Write the landlord again, telling him that if the work isn't done, you plan to do it and deduct the cost. You can cite the landlord's legal obligation to the Warranty of Habitability here, to indicate that their failure to fix the problems is illegal. Keep a copy of this letter.

2. Get receipts for all parts or labor.
3. Get reasonable prices for the repairs.
4. When you pay the next month's rent, include a letter that says what work you did, why, and how much it cost - which is the amount you will deduct. Send copies of the receipts; keep the originals. If the landlord tries to evict you for not paying all the rent, you will have good records of what you did, and why.

## **REPORT YOUR LANDLORD TO CITY INSPECTORS**

If the landlord continues to avoid repairs, you can contact Code Inspectors in your municipality — in the City of Ithaca, the Building Division can be reached at ~~(607) 274-6508~~. They can force the landlord to make the repairs by fining them if the repair isn't made. It is illegal for your landlord to harass, intimidate, refuse to renew your lease, or evict you for complaining about poor living conditions.

## **WITHHOLD RENT**

If a landlord is violating your Warrant of Habitability rights, they are failing to uphold their obligations under the lease, and it is reasonable to respond by temporarily suspending your own obligations until they meet theirs and repair your living space.

Withholding rent can be very effective but also presents risk of retaliation. It's advised that if you do this, you collaborate with other tenants and/or contact your local tenants organization for assistance.

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## **Landlord Entry & Harassment**

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## **Our Rights**

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New York state anti-harassment laws make it illegal for landlords to engage in any action that is intended to force tenants to leave their homes or otherwise give up their rights under law. As far as the State is concerned, forcing tenants out is an act reserved for the legal system, and landlords attempting to do it on their own are circumventing the law.

Landlords are prohibited from interfering with tenants' privacy, comfort, and quiet enjoyment of their homes. **According to Real Property Law Section 768, it is a Class A Misdemeanor with fines of \$1,000–\$10,000 for a landlord try to make you leave by:**

- **physically threatening you**
- **changing your locks**
- **removing any of your furniture or belongings**
- **interrupting or turning off your heat or utilities**
- **otherwise in any way trying to force you out from your apartment without a court order — whether you are paying rent or not.**

*Each documented attempt of the above tactics can carry a fine of up to \$10,000.*

**Landlords are also prohibited from engaging in disruptive construction or renovation projects in your building that interfere with your health, safety, and use of your apartment.** These actions could be considered harassment.

**Landlord harassment is a valid defense in eviction cases, according to the NY Courts system.** This means that if your landlord is harassing you while threatening eviction, you can point out that their chance of successfully evicting you becomes lower for each additional harassment incident you document. It doesn't matter if the harassment tactics aren't on the above list — anything that disturbs your living can be used as a defense.

**You may refuse entry to a landlord if they do not give proper notice for a visit, or if they try to enter for any reason beyond the five valid ones listed below.** These rights cannot be waived — they still apply if your lease says otherwise, or if you don't have a lease.

## **When Your Landlord Can Legally Show Up To Your Apartment**

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Landlords can only enter rental units for five reasons:

1. Move-in/-out inspections at the beginning or end of a lease

2. “Routine” inspections up to about 2 times per year, to ensure lease compliance (tenants can request that this is done virtually)
3. Showing the apartment to prospective tenants or buyers (tenants can request that this is done virtually)
4. Making habitability-related or tenant-requested repairs
5. Responding to a safety emergency like a fire or burst pipe

According to precedent set by the Zwerin v. Geiss ruling in 1963, **for inspections and showings, your landlord must give you at least 24 hours’ notice before arriving, and for repairs they must give at least 1 week’s notice.** You may waive this if you wish to have a repair done sooner. According to the same law, **landlords must schedule all entries on weekdays between 9a.m. and 5p.m.,** unless otherwise requested by a tenant. Entry may not be scheduled on holidays without a tenant’s consent.

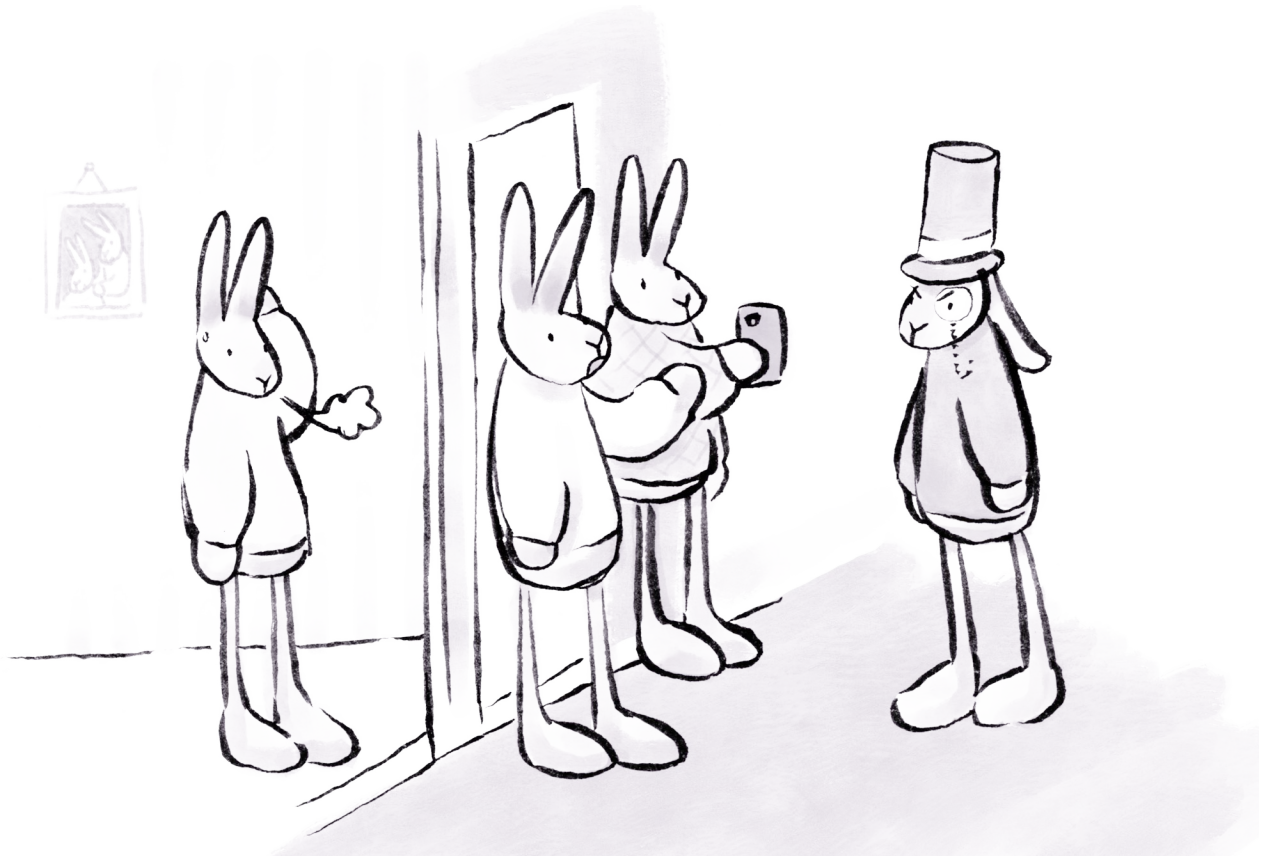
Once a landlord finishes their inspection, showing, or repair, they must leave the unit. They may not return without starting the notice cycle over and giving a valid reason for the visit – **so if your landlord finishes a showing or inspection and tries to return later in the day to talk to you, you do not have to give them permission to enter.**

**If a landlord violates reasonable notice law, or shows up to your unit without a valid reason or your consent, NY Jurisprudence 2d says that they are committing trespassing.**

## **What to Do if Your Landlord Harasses or Intimidates You**

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**LANDLORD IS DEMANDING OR FORCING ENTRY AGAINST YOUR WISHES**



If your landlord is entering your apartment without your consent, the very first step is ensuring your physical safety. **If you feel unsafe, we recommend changing your own locks and contacting your neighbors and/or local tenants organization** — Ithaca residents can contact [ITU's Organizing Help Line](#). Once you have physically prevented illegal entry, you may wish to have your landlord prosecuted for harassment.

**We do not recommend calling the police**, as they generally side with landlords who can afford to fight them in court, and may inflict violence upon you or your neighbors. **Instead, we recommend calling your neighbors — simply outnumbering an angry landlord is often enough to calm them down and get them to listen to you.** We recommend keeping record of your neighbors' contact information, and talking to each other about your tenancy situations.

**Often, landlord harassment is done with the intent of forcing you to leave your home. This is highly illegal** — please see the “Our Rights” section above for information on the laws and penalties.

You might be required to eventually provide your landlord with a copy of a new key if you change your own locks, but you can demand that illegal entries and harassment stop before you do so, and simply change the locks back if they comply to your satisfaction.



## **LANDLORD IS NOT REPAIRING OR MAINTAINING A SAFE AND FUNCTIONAL LIVING SPACE**

Landlords may attempt to make an apartment or rental unit uncomfortable or unsafe as a method to force a tenant to move out. This is illegal. All tenants, even if you don't have a written lease, are entitled to a safe and decent living environment.

Actions that are illegal include:

- Shutting off utilities
- Removing faucet heads and other necessary fixtures or appliances
- Not fixing a pest infestation

See [Building Issues & Maintenance](#) to review your rights and your options for forcing your landlord to make repairs.

## **LANDLORD IS THREATENING TO FORCEFULLY REMOVE YOU AND/OR YOUR BELONGINGS**

Even the threat of either of these actions is considered an illegal eviction attempt under [Real Property Law Section 768](#). This is a Class A Misdemeanor that carries fines between \$1,000 and \$10,000 per attempt.

Keep any evidence of this threat/harassment, which could include text messages, emails, letters, pictures, audio/video recordings (NY is a "one party state", meaning that only one person in a conversation needs to know they are being recorded).

If you live in Ithaca, contact [ITU's Organizing Help Line](#) to be connected to organizers who can advise you, refer you to free legal counsel, and set up an eviction blockade to prevent illegal evictions by your landlord. If you live far away from Ithaca, contact your local tenants' organization.

## **LANDLORD IS THREATENING TO RAISE RENT, LEGALLY FILE FOR EVICTION, OR NOT RENEW YOUR LEASE**

Document these threats, and see "Retaliation for Tenant Complaints" in the [Lease Renewal](#) section of this guide.

## **LANDLORD IS ENGAGING IN OTHER HARASSING BEHAVIOR**

If your landlord is:

- Trying or threatening to hurt you or those close to you

- Acting in an abusive way like cursing or berating you, calling or physically showing up to your job or family members, calling at odd hours, etc.
- Taking you to court for nothing over and over again
- Surveilling you while you're inside your home



These are outside the scope of tenant law, although you should still keep record of them for possible use in a future eviction case defense. While we can't offer solutions in our Tenants Rights Guide (especially considering local police's documented apathy towards abuse and harassment) you can organize with your neighbors and/or contact your local tenants organization to find creative ways to build the necessary power to stop it.

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## **Late or Unpaid Rent**

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  **During COVID-19, protections for NY residents unable to pay rent are constantly evolving. Please see the [Current Eviction Moratorium page](#) for specifics on how you're protected.**

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## **Our Rights**

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After your rent's due date, you have 5 days before it can legally be considered late, according to the [2019 HSTPA](#). **Late fees cannot exceed \$50 or 5% of the unpaid rent, whichever is less.** During and after this 5 day period, you have the right to negotiate a forgiveness or payment plan with your landlord. These rights cannot be waived — they still apply if your lease says otherwise, or you don't have a lease.

## **When You Can't Afford Rent**

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First off, do not panic, or blame yourself. Know that eviction is far off and requires a lengthy legal process that will likely last several months, if not more. **Understand that being unable to afford rent while also paying for groceries, utilities, a phone, and/or**

**an emergency expense is not your fault.** Most importantly, know that your neighbors are likely willing to help, and that **ITU will always take your side.**

Many of us are conditioned to believe that being unable to pay our bills is a sign of weakness, irresponsibility, or failure to work hard. In reality, most people living in America live paycheck-to-paycheck and are unable to afford a \$500 emergency while still paying bills on time. It is often those who work hardest and/or have the most stacked against them that struggle to make ends meet: poverty itself is expensive.

In general, when you can't afford rent, we recommend contacting other tenants of the same landlord and letting them know that you may need their solidarity in the near future, as well as contacting your landlord to ask that they waive a month's rent or establish a payment plan. If your landlord threatens to evict you for nonpayment, please see our [Eviction](#) section to know your rights and options.

Each nonpayment situation is unique, but you can read our [Eviction Court](#) section for an overview of how the legal process works and the approximate timeline. If you live in or near Ithaca, no matter what, [contact the Tenants Legal Hotline](#) for free legal help with your specific situation. Outside of the Ithaca area, you should contact [Legal Assistance of Western NY](#).

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## **Lease Renewal**

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### **Our Rights**

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In short, lease renewal is considered to be the default. If your lease expires, it is considered to continue on the same terms on a month-to-month basis unless your landlord has given appropriate notice of non-renewal as per [Real Property Law L Section 226-C](#).

**Unfortunately, if your landlord gives proper notice, they retain the right to unilaterally choose not to renew the lease unless you live in a city that's passed Good Cause Eviction laws.**

There is also currently no maximum notice period for non-renewal, and landlords often abuse this law by asking you to renew many months before you are ready to make the decision, so that if you say you aren't ready they can claim you refused to renew. **If your landlord asks if you want to renew too early, respond by telling them when you'll make the decision instead of just saying no or ignoring them.**

If you've made a complaint about repairs, safety, or violations of your lease rights (including your rights in our [Landlord Harassment](#) section) within the past year, [Real Property Law L Section 223-B](#) says there are additional restrictions on a landlord's right to raise your rent or not renew, and doing either could be considered retaliation for your complaint.

## Required Notice Periods for Non-Renewal

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If a landlord plans to not renew your lease, or raise your rent more than 5%, below are the necessary notice periods from [Real Property Law L Section 226-C](#). They are based either on your lease length or the amount of time you've lived in the unit, whichever is longer:

- Occupancy or lease of 0-1 years: 30+ days notice
- Occupancy or lease of 1-2 years: 60+ days notice
- Occupancy or lease of 2+ years: 90+ days notice

If the landlord fails to give proper notice, tenancy continues under the existing lease or rental agreement on a month-to-month basis.

The same rules do not apply if tenants decide not to renew — tenants don't need to give any notice for yearly leases. For month-to-month leases, tenants must give one month's notice to the landlord before they stop renewing the lease.

## Retaliation for Tenant Complaints

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It is illegal for landlords in New York to refuse lease renewal, significantly raise rent, or file for eviction in retaliation for a good faith complaint to them or to a government agency made in the past year, or for participation in the activity of a tenancy organization like ITU, according to [NY Real Prop L Section 223-B](#). These complaints may include violations of health and safety laws, issues with habitability or non-repair of the premises, or violations of rights under a lease.

If your landlord refuses lease renewal, significantly raises rent, or files for eviction and you inform the court that you made such a complaint within the past year, your landlord must prove that their actions aren't retaliatory to be allowed to continue.

**You are not protected by retaliation law if you live in an owner-occupied dwelling with fewer than 4 units.**

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## **Finding Apartments & Signing Leases**

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### **Illegal Fees and Deposits**

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All of these were made illegal by the 2019 HSTPA:

- Security deposits exceeding one month's rent
- **Charging last month's (or any other month's) rent in advance**

Some landlords dispute this, saying that [General Obligations Law §7-108](#)'s language of "deposit OR advance" means they can charge both. The Attorney General rejects this, and has [made it clear](#) that "your landlord may not charge you in advance for the last month's rent if you are also paying a security deposit." This is affirmed in the [Division of Housing and Community Renewal's Office of Rent Administration Fact Sheet #9](#).

- Credit or background checks exceeding \$20

If charging \$20 or less, landlords must be willing to accept a tenant-provided background or credit check in place of the fee. The tenant-provided report must be no more than 30 days old. If the landlord runs the credit and background checks, they must supply tenants with a copy in exchange for the fee.

- **Application fees or "holding fees" beyond the security deposit**
- Pet deposits
- Cleaning fees/deposits separate from the security deposit — this is what security deposits are for.

## **Section 8 Discrimination**

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Under NY Human Rights Law, refusing to rent to someone because of their lawful source of income is illegal. **If you can get a recording or written record of a landlord refusing to rent to tenants receiving Section 8, you have caught them committing a crime.** Contact your local tenants organization, as with organized pressure you may be able to force that landlord to rent to you in exchange for not prosecuting them for discrimination.

## Housing Discrimination

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The Fair Housing Act is a federal law passed by Congress in 1968 and amended in 1988 that prohibits housing discrimination. In the sale or rental of housing, landlords and their representatives may not take any of the following actions on the basis of race, color, religion, national origin, gender, familial status, disability, age, marital status, sexual orientation, military status, lawful source of income beyond employment, or gender identity/expression:

1. Refuse to rent or sell housing.
2. Set different terms, conditions or privileges, for sale or rental of a dwelling (charging different rents or security deposits).
3. Provide different housing services or facilities.
4. Falsely deny that housing is available for inspection, sale, or rent.
5. Engage in blockbusting or “steer” people to different housing opportunities.
6. Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right.

Unfortunately, the Fair Housing Act leaves significant room for discrimination: landlords can simply reject you without stating a reason. This is where establishing patterns come in – if you have a housing search story that feels unjust to you and you live in or near Ithaca, please contact ITU’s Organizing Help Line so we can record it and look up other submissions to see if this has happened before. If you live outside the Ithaca area, contact your local tenants organization.

## Pets

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While it is legal for private landlords to have a “no pet” policy in rental housing, all landlords must waive the “no pet” policy in certain situations involving people with disabilities, who have animals for reasons related to their disabilities. It is illegal for landlords to require a “pet deposit” whether or not the pet is a support/service animal.

**If you are a person with a disability who has a disability-related pet, and you want to live in housing that has a “no pets” policy, you should ask your doctor or health care provider to write a letter stating the nature of your disability and explaining how the support animal will relieve the symptoms of your disability.** Take a copy of the letter to the landlord and ask for permission to have the disability-related pet.

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## **Security Deposits & Move-In/-Out**

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### **Our Rights**

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A security deposit is the only deposit that landlords can legally ask for when you sign a lease, and is generally collected alongside your first month’s rent. According to [NY General Obligations Law §7-108](#), a security deposit:

- Cannot exceed the cost of one month’s rent
- Cannot be used to pay rent, except for rent debt that remains after your lease is up
- **Must be returned within 14 days of your move-out.**
  - **If any money has been deducted, you are owed an itemized list of these deductions within the same 14 days. If a landlord does not do either of these, they forfeit any right to the deposit, regardless of how damaged the apartment is, and must give it all back to you.**
  - **If your lease says otherwise, that clause is illegal and unenforceable, according to [NY GOB §7-108 \(3\)](#).**
- Must include any interest your landlord earns holding your security deposit on top of the original deposit when they return it to you, if you live in a building with 6 or more units.

**If a landlord wrongly withholds some or all of your security deposit, Small Claims Court may award you up to three times the value of the withheld amount.**

For information on other kinds of deposits, which are all illegal, please see the [Finding Apartments & Signing Leases](#) section of this guide.

The truth is, despite New York having fairly strong security deposit laws, it still is not good about protecting tenants' rights to our security deposits if we don't follow its specific procedures when moving in. Luckily, most landlords can afford to lose a deposit, and would rather do so than deal with public shaming or going through an expensive litigation process — if they are pressured by organized power. Speak to your neighbors and/or contact your local tenants organization to get started on building and exercising the necessary power — Ithaca residents can contact [ITU's Organizing Help Line](#).

## **When Your Landlord Can & Can't Deduct From Your Security Deposit**

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The following two lists are based on [NY General Obligations Law §7-108](#)

Your security deposit CAN be deducted for:

- Damage you do to the space that goes beyond wear and tear, like large holes in the wall, significant carpet stains, broken fixtures, or cracked windows and tiles.
- Cleanup that could be done by you before move-out and would not reasonably need to happen after every move-out, like trash or furniture left behind, dirty ovens or stoves, and dirty bathrooms or floors.
- Undoing modifications you make to the apartment for reasons other than disability access, such as painting walls a new color or installing pegboard in your kitchen.

**Your security deposit CANNOT be deducted for:**

- **Damage or disrepair in the unit that is not your fault**, such as structural mold, holes in floors, broken pipes/faucets, water damage due to poor plumbing, etc. — even if they accumulate while you live there.
- **“Normal wear and tear”** like scratches on walls or floors, holes from hanging pictures, chipped paint, and other things that inevitably accumulate over the years.
- **Cleaning that refreshes the space for new tenants, which would reasonably need to happen after every move-out**, like carpet steaming, repainting or touching up walls you haven't painted over, and removing dust.



**Even if your landlord is deducting from your security deposit for a legitimate reason, they must give you an itemized list of their costs within 14 days of move-out or they need to return your full deposit**, and possibly more. Landlords must charge normal market rates for cleaning or repair work.

## **How to Get Your Wrongly Held Security Deposit Back**

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The first step is to write a letter, preferably signed by other tenants who rent from that landlord and/or your local tenants organization (Ithaca residents can contact the [ITU Organizing Help Line](#) for both) that notifies them of their wrongful withholding and threatens to take them to Small Claims Court if you don't receive the deposit by a certain date. You can also find success in asking tenants who replace you to withhold rent until the landlord returns your deposit.

### **GOING TO SMALL CLAIMS COURT**

**To initiate a claim, fill out [this form](#) and bring it to your local civil courthouse.** If you need help filling it out or getting it to the courthouse, contact your local tenants organization.

Small Claims Court is designed to be simple. You can sue another person without having a lawyer represent you. If your landlord refuses to give back your deposit because he or she claims that you damaged the apartment, you should bring witnesses, photos and other evidence with you to court to prove that you did not cause the damage. If your landlord refuses to give back your deposit because he claims that you owe back rent, you should bring with you to court copies of rent receipts, money orders and canceled checks that you used to pay your rent.

The Court may award you damages for any part of your security deposit that should have been returned, and in the City of Ithaca can award you up to triple the amount of the wrongfully withheld deposit. If your landlord didn't follow the rules described above, or mixed your deposit with the landlord's own money, you should make sure you tell this to the court. The court may decide that by violating these rules the landlord forfeited any right to keep any portion of your security deposit. If you rented the property after July 14, 2019, and the landlord willfully violated the security deposit rules, the court may also award punitive damages that are twice your actual damages.

If you go to Small Claims Court, the landlord can sue you for any amounts that the landlord believes you still owe after the security deposit has been deducted. This means that the landlord could be awarded a judgment against you, if the Judge decides that the landlord's evidence is stronger and more convincing than yours.

## **Disability-Related Modifications**

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Your landlord cannot deduct from your security deposit for any reason related to disability-related modifications you've made or had them make to the apartment. For more information, see the [Disability-Related Laws](#) section.

## Security Deposit Protocols During Move-In/-Out

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When you move in, be sure to get the landlord's name, address, and phone number. Find out who you should contact for repairs.

**Your landlord is required to offer to conduct an inspection of the apartment with you.** The inspection should happen before you move in, and the landlord or the landlord's agent must be present. **You should agree to this inspection and ask for it if they don't offer.** After the inspection, the landlord is required to create a written agreement noting any damages to the apartment that existed before you moved in. If there is any dispute later about the damage, this agreement will be allowed as evidence. You should carefully inspect the apartment. Inspect it with your landlord and a third person as a witness. Use a checklist to note any problems you see. For example, if you see a hole in the wall or a cracked window, write it down. If you can, take photos or videos. These items should go into the written agreement with your landlord. Taking these steps will protect you when you move out. Your landlord will not be able to keep your security deposit to pay for damage that existed when you moved in.

**Before you move out, you should have a witness inspect the apartment with you again. If you can, take photos or videos.**

## Move-In/-Out Inspection Checklist

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You can use a checklist that you make up; this one is just a general suggestion. After each item, leave enough room to write what you saw. If you can, make two columns. One is for when you move in, and the other for when you move out. Include the following items:

### GENERAL

Doors, locks, windows, window screens, furnace, basement, carpets, curtains, window shades, entryway, yard

### KITCHEN

Refrigerator, stove, oven, sink, counters, cupboards and drawers, floor, walls, plumbing

### BEDROOMS

Closet, floor, walls, ceiling, light fixtures

## BATHROOMS

Sink, toilet, tub, shower, tiles, plumbing, floor, walls, fixtures and towel bars, cabinets, mirror

You, the landlord, and any witnesses should sign and date the list. Be sure to include all damages listed in the checklist in the written agreement after the inspection. Do this after both the inspection when you move in and the one when you move out.

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## Eviction

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## Our Rights

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Once you've lived somewhere for 30 days, whether you have a lease or not, landlords cannot evict you without going to court multiple times — and they're legally required to give you specific paperwork before and after each time in order to proceed. **If you're not receiving the court paperwork, they're nowhere close to evicting you. In our experience, MOST of the time a landlord says they're evicting you, they're lying.** The real process is expensive for landlords and takes multiple months, so they don't like to do it.

## Illegal Eviction Threats and Acts

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Trying to evict you without going through the proper court process is illegal. According to [Real Property Law section 768](#), it is a Class A Misdemeanor carrying fines of \$1,000-\$10,000 per attempt for a landlord to do or even *threaten* any of the following:

- Forcibly removing you or your belongings from the apartment
- Intentionally interfere with your right to comfortable and peaceful living by using harassment to pressure you into leaving (for more, see our [Landlord Entry & Harassment](#) section)
- Change your locks or remove your door
- Turn off your utilities (including water, heat, electricity, garbage pickup or sewer)

**We cannot overstate how important it is to know it's illegal to even threaten any of these things.**

## **When Your Landlord Violates Eviction Law**

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If you believe there is an imminent physical threat of eviction, get in contact with your neighbors and/or your local tenants organization — Ithaca residents can contact [ITU's Organizing Help Line](#). We can provide information, and show up for physical protection and de-escalation.

### **ORGANIZE!**

Working together is far more effective than working alone! Meet with, leave letters for, or otherwise contact your neighbors to see if they are facing similar problems — more often than not, a landlord will act abusively towards many tenants. If your neighbors are not facing similar problems, it is possible the landlord is discriminating against you.

- Contact your local tenants organization to get connected to other tenants who share the same landlord, meet experienced organizers who can answer questions about rights and organizing, and distribute the work of winning the safety, funds, and dignity you deserve. Ithaca residents can contact [ITU's Organizing Help Line](#).
- Lay out your options for creating leverage against the landlord together with your neighbors or other ITU tenants, like reporting them to inspectors, withholding rent, or publicly shaming them.

Meet with, leave letters for, or otherwise contact your neighbors to see if they are facing similar problems. More often than not, a landlord will act abusively towards many tenants. If your neighbors are not facing similar problems, it is possible the landlord is discriminating against you.

### **SHOULD YOU CALL THE POLICE ON LANDLORDS WHO VIOLATE EVICTION LAW?**

We do not encourage tenants to call the police in illegal eviction scenarios, especially since they can commit uncalled for violence at their own discretion. Almost always, police officers will take the side of property owners instead of tenants. **The police listen to the people who can afford to fight them in court, and rarely do they take the concerns of poor people seriously.**

That said, your landlord may call them to try to help evict you, or you may feel you have no other option but to call 911. If cops do show up and you are told, "Sorry, illegal eviction issues are a civil matter," don't give up! Tell them it is a class A misdemeanor for any person

to try to illegally evict a tenant under Real Property Law Section 768. A landlord may also be liable for civil penalties in addition to the criminal charges.

If the officer refuses to pursue the matter, ask for their name and badge number. Then ask to speak to the officer's supervisor. This can help convince an officer to act, because it may look bad for them if you do pursue a case against your landlord and they're found to have not acted when witnessing an illegal eviction attempt.

## **OTHER THINGS YOU CAN DO**

- Eviction blockaders can physically prevent landlords or others from moving furniture out of an apartment or entering to facilitate an illegal eviction. Ithaca residents can contact ITU's Organizing Help Line to get help with this. Blockaders must do whatever you are comfortable with as a tenant, no more or less.
- If you live in or near Ithaca, contact the Tenants Legal Hotline to receive free legal help. If you live elsewhere upstate, you should contact Legal Assistance of Western NY. You also might be able to get "triple damages" for any losses or costs caused by the illegal eviction. You should keep proof of expenses that you had because of the illegal eviction. If you cannot get a lawyer to help you, you can sue your landlord in Small Claims Court. You should know that the amount you can win there is limited.

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## **Eviction Court**

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There are two kinds of cases in Housing Court: non-payment of rent cases, and holdover cases. A holdover case is for everything other than non-payment, and this is when the landlord tries to evict the tenant for breaking the lease. For example, the landlord may say the person living in the home is a squatter that doesn't have a lease, or say a tenant is destroying the property or making too much noise.

The "petitioner" is the person who starts the court case. This is often the landlord in housing court, but not always. The "respondent" is the person answering the allegations in the case filed with the court. The respondent can also allege that the petitioner did things wrong, like violate the lease or tenant law.

## Non-Payment Cases

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### 14 DAY RENT DEMAND FOR UNPAID RENT

If you cannot pay rent, a landlord will likely give you a 14-day notice called a "rent demand." A rent demand is a written statement that rent must be paid by 14 days after the date the demand was given. **A rent demand must be written, and cannot be served fewer than 5 days after the rent's due date.**

If rent is not paid by 14 days after the demand was given, a landlord can file for an eviction with the court.

### NOTICE OF PETITION AND PETITION

After filing for eviction with the court, the landlord must present the tenant with two documents: the Notice of Petition and the Petition.

The Notice of Petition is a document that has details about an upcoming eviction court hearing for the case, and what happens if the tenant doesn't appear in court (usually leads to an eviction). The Petition is a document that outlines your landlord's reason for filing an eviction.

**Both the Notice of Petition and the Petition must be served together at least 10 days before the eviction court hearing date listed on the Notice of Petition.** After the landlord serves you the Notice of Petition and Petition, the court clerk may send you a postcard that tells you to come to court. You should go to court on the date listed on the card.

**If you do not come to court on the date listed on the Petition, a default judgment may be entered against you. A default judgment means that you automatically lose for not responding to the court.**

If you are unsure if a case has started against you or what day to go to court, call your local Housing Court and check with the Clerk's office to see the status of your case.

## Holdover Cases

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### PREDICATE NOTICE

If a landlord is trying to evict you in a holdover case, the landlord might have to give you a predicate notice. Predicate notices differ based on the kind of lease violation that the landlord is alleging.

### NOTICE OF PETITION AND PETITION

See above under Non-Payment Cases — the same applies here.

## Postponing Your Hearing

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**You can postpone the initial eviction court hearing to find appropriate legal representation.**

- If you make below 200% of the Federal Poverty Level per year (about \$25,000 per year for a single person household; about \$52,000 per year for a household of four), you may qualify for free legal representation from a legal aid attorney.
- The court clerk may be able to help you find legal representation or contact a local legal service provider, such as the [Tenants Legal Hotline](#) for Ithaca residents, or [Legal Assistance of Western NY](#) for other upstate residents.

**You can request ONE 14-day postponement, called an Adjournment of Hearing, if you dispute the landlord’s facts about the case.** Facts in dispute may include the amount of rent owed and lease violations that the landlord alleges, or records of complaints you made in the past year that your landlord is retaliating against you for (see the [Lease Renewal](#) section). You can use an adjournment to prepare your case and arguments.

## If the Court Grants Eviction

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If the court rules in your landlord’s favor, the judge can issue a Warrant of Eviction, which will give you at least 14 days to vacate before it is executed. This usually occurs around two months after the case is initially filed. **If the police execute the warrant and you live near Ithaca, the ITU will serve as eviction defense or supervision in whatever capacity you would like.** We can also help you move, find alternative housing, and more — contact [ITU’s Organizing Help Line](#) to discuss. If you live elsewhere upstate, contact your local tenants organization.

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## Disability-Related Laws

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## How Does the Law Define “Disabled”?

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1. Anyone who has a disability (including, but not limited to: chronic mental illness or disability, hearing or visual impairments, mobility impairments, cancer, and HIV) that substantially limits one or more major life activities.
2. Anyone who has a record of disability.
3. Anyone regarded as having a disability.

## **Making Changes to Your Apartment/Lease for Your Disability**

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If you have a disability, your landlord may not:

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your own expense, if necessary.
- Refuse to make reasonable accommodations in rules, policies, practices or services, if necessary, for the disabled person. For example: A building with a “no pets policy” must allow a visually impaired tenant to keep a guide dog.

## **Accommodations for Wheelchair Users**

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For wheelchair users, newer buildings (ready for occupancy after March 13, 1991) with an elevator and four or more units must have:

- accessible public areas and common areas
- accessible doors, hallways, and routes into and through the unit
- environmental controls
- reinforced bathroom walls (for grab bar installation)
- accessible kitchens and bathrooms

For buildings of four or more units built after this March 13, 1991, without an elevator, these standards only apply to ground floors.

## **Support or Service Animals**

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While it is legal for private landlords to have a “no pet” policy in rental housing, all landlords must waive the “no pet” policy in certain situations involving people with disabilities, who have animals for reasons related to their disabilities.

If you are a person with a disability who has a disability-related pet, and you want to live in housing that has a “no pets” policy, you should ask your doctor or health care provider to write a letter stating the nature of your disability and explaining how the support or service



animal will relieve the symptoms of your disability. Take a copy of the letter to the landlord and ask for permission to have the disability-related pet.

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## **Occupants Not on the Lease**

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### **Section 8**

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Section 8 heavily restricts low-income tenants' rights to live with and be visited by our families and friends. Despite being a federally administered program, there is little publicly available information on the specifics of our rights to guests & visitors under Section 8. We recommend that tenants on vouchers keep additional occupants a secret from landlords and Section 8 workers if possible. Are you a tenant, organizer, or lawyer with experience in Section 8 rights? Please [contact us](#)!

### **Our Rights**

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Many landlords will attempt to put restrictions on how many people can be in a unit and how long guests can stay. According to [Real Property Law L Section 235-F](#), landlords cannot restrict access to your unit for your immediate family, and any dependent children of yours. **The same law entitles you to have one additional occupant of your choice on the premises, family or not.** This occupant can stay as long as they would like.

These rights cannot be waived — they still apply if your lease says otherwise, or you don't have a lease.

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## **Breaking a Lease**

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## Our Rights

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If you choose to move out before your lease is over, there are some legal protections in place to help prevent you from being responsible for the rest of the rent on your lease term.

According to [Real Property Law L Section 227-E](#), your landlord is legally required to make documented good-faith attempts to re-rent your apartment at a fair market rate before a court will allow them to try to sue you for the money. If you go through the effort of finding a new tenant for them yourself, there is little to no chance they can hold you responsible for the rest of the rent. **We do not recommend subletting in this case, as your landlord can still come after you if any issues arise with the new tenant — inform your landlord of the above law and let them know this new tenant will be replacing you on the lease.**

The only real reason they can reject a tenant that you find is due to financial ineligibility, which unfortunately can include both credit score and income level — so discrimination is still possible here and is something to watch out for. If your landlord rejects a tenant that you find, be sure to get a specific reason in writing.

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