



New York State
Division of Housing and Community Renewal
Office of Rent Administration

Policy Statement 2020-1 (August 25, 2020)

Application of the Treble Damages Penalty

The purpose of this policy statement is to explain the application of treble damages upon the finding of a rent overcharge pursuant to Section 26-516a of the Rent Stabilization Law (RSL), which has been amended by the Housing Stability and Tenant Protection Act (HSTPA) of 2019 enacted on June 14, 2019.

Any owner who is found to have collected an overcharge "...shall be liable to the tenant for a penalty equal to three times the amount of the overcharge. If the owner establishes by a preponderance of the evidence that the overcharge was not willful, the... (DHCR)... shall establish the penalty as the amount of the overcharge plus interest." Otherwise, the imposition of treble damages for pre-HSTPA overcharge complaints will be assessed against any overcharges collected beginning two years before the filing of the complaint. However, for post-HSTPA overcharge complaints (filed on or after June 14, 2019), the imposition of treble damages can be assessed against any overcharges collected beginning up to six years before the complaint's filing.

When an owner receives notice that an overcharge has been determined and that treble damages are about to be imposed, he or she is also notified to submit evidence within twenty (21) days to prove that the overcharge was not willful.

The owner must prove by a preponderance of the evidence that the overcharge was not a willful act. This simply means that where an owner submits no evidence or where the evidence is equally balanced, the overcharge is deemed to be willful. However, when the burden of proving the overcharge is not willful has been met by the owner, treble damages will not be included.

Please note that a voluntary adjustment of rent and a voluntary tender of rent overcharges shall not be considered as evidence that the overcharge is not willful.

Woody Pascal
Deputy Commissioner
for Rent Administration

This document is being issued for informational purposes only.

The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.