



Rent Reductions For Decreased Services

4 PAGES

AT A GLANCE

Describes tenants' rights to a rent reduction if they experience a decrease in services in their apartment or throughout the building.

DEFINITIONS

Division of Housing and Community Renewal (DHCR):

DHCR is the New York State agency that invests in communities, preserves and protects affordable housing and enforces the state's rent control and rent stabilization laws.

Rent stabilization: Rules that provide protections to tenants besides limitations on the amount of rent. Tenants are entitled to receive required services, to have their leases renewed, and may not be evicted except on grounds allowed by law. Leases may be renewed for a term of one or two years, at the tenant's choice.

SUMMARY AND HIGHLIGHTS

A tenant who experiences decreased service in an individual apartment or in the building may file a complaint on the appropriate form.

Process	<ul style="list-style-type: none"> DHCR screens and docket incoming complaints, serves a copy on the owner and may inspect the conditions described. DHCR will issue a written order that may reduce the rent and directs repairs.
Terms of Rent Reduction	<ul style="list-style-type: none"> The effective date for rent stabilized tenants is retroactive back to the first day of the month following DHCR's service of the complaint on the owner. For rent controlled tenants, the effective date is the first day of the month after the order is issued. The amount of the rent reduction for rent stabilized tenants is generally the most recently charged lease guideline adjustment. For rent controlled tenants, the amount is a dollar amount set by DHCR. For rent stabilized tenants, a rent restoration order will not be issued until all services listed in the rent reduction order are corrected. For rent controlled apartments, partial rent restoration orders can be issued.

FACT SHEET #14: IN DETAIL

Tenant rights when an owner is not maintaining services

It is recommended that a tenant who experiences a decreased service in an individual apartment or in the building should first contact the owner in writing. If written notice does not resolve the problem, the tenant may file a complaint with the Division of Housing and Community Renewal (DHCR).

For an individual complaint a tenant may use an *“Application For A Rent Reduction Based Upon Decreased Services - Individual Apartment”* (DHCR Form RA-81) for complaints about conditions in the apartment. The complaint may also be submitted online at www.hcr.ny.gov. For complaints involving a decrease in building-wide services, a tenant or tenant representative may file an *“Application For A Rent Reduction Based Upon Decreased Building-Wide Services”* (DHCR Form RA-84). A tenant may attach a copy of their letter to the owner or agent with proof of mailing or delivery (for example: certificate of mailing, certified mail receipt or signed receipt from owner or agent acknowledging personal delivery).

Complaints to DHCR that cite any of these emergency conditions will be treated as a first priority and will be processed as quickly as possible, whether they are submitted by an online or paper application. These emergency conditions are: vacate order (5 day notification), fire (5 day notification), no water apartment wide, no operable toilet, collapsed or collapsing ceiling or walls, collapsing floor, no heat/hot water apartment wide (violation required), broken or inoperative apartment front door lock, all elevators inoperative, no electricity apartment wide, window to fire escape (does not open), water leak (cascading water, soaking electrical fixtures), window-glass broken (not cracked), broken/unusable fire escapes, air conditioner broken (summer season).

For paper submissions, it is recommended that tenants use a separate DHCR form for

any problematic conditions that are not on this emergency condition list.

Procedures when a Complaint of Decrease in Services is filed

1. The DHCR screens and docket these applications and sends the tenant(s) an acknowledgement with the complaint/docket number.
2. The owner’s timeline to respond depends upon the nature of the complaint. A copy of the tenant’s application/complaint is sent to the owner and the owner is given a specified amount of time in which to respond. At all times, DHCR may grant an owner a reasonable extension of time to respond.
3. If the owner’s answer is relevant to the determination, DHCR may send a copy to the tenant who is given a specified amount of time to respond. DHCR may schedule an inspection during the processing of the application.
4. If the evidence indicates that the owner failed to maintain required services, the DHCR can issue a written order that directs the owner to restore services and reduces the rent for the apartment. The order will stay in effect until the owner applies to DHCR and receives a Rent Restoration Order that finds that services have been restored. DHCR may not issue an order concerning items which were not contained in the tenant’s complaint.

Tenant rights when an owner does not comply with a DHCR Service Reduction Order

If an owner has failed to restore services and/or correct the conditions specified within 30 days after the issuance date of the order, the tenant may file a *“Tenant Affirmation of Non-Compliance”* (DHCR Form RA-22.1), to request that a compliance

proceeding be initiated. The tenant is also authorized to reduce their rent in accordance with the order.

Procedures if the owner cannot obtain access to the apartment to make repairs

If an owner has attempted, but been unable to obtain access to the subject housing accommodation to correct the service or equipment deficiency, the owner should state this in the response. Upon receipt, the DHCR may direct an inspector to accompany the owner or the owner's agent to the housing accommodation to determine whether such access is being provided. In order for the DHCR to coordinate the inspection, the owner should indicate that access has been denied in the response submitted to the DHCR and should include copies of two letters to the tenant attempting to arrange for access. Each of the letters must have been mailed at least eight days prior to the date proposed for access, and must have been mailed by certified mail, return receipt requested. Exceptions to such requirements for inspection may be permitted under emergency conditions, where special circumstances exist, or pursuant to court order.

The tenant's service complaint will be denied or the owner's rent restoration application will be granted, where a tenant fails to provide access at the time arranged by the DHCR for an inspection.

Effects of the DHCR rent reduction order for rent stabilized and rent controlled tenants

1. The effective date for rent stabilized tenants is retroactive back to the first day of the month following DHCR's service of the complaint on the owner. For rent controlled tenants, the effective date is the first day of the month after the order is issued.
2. The amount of the rent reduction for rent stabilized tenants is generally the most recently charged lease guideline adjustment **(See Example #1 below)**. For rent controlled tenants, the amount is a dollar amount set by

DHCR **(See Example #2 below)**.

3. The order bars further rent increases for rent stabilized tenants until DHCR issues a rent restoration order. Tenants and owners should review the rent reduction order to determine if the collection of increases due to a major capital improvement rent increase and/or individual apartment improvement rent increase are affected. (See related Fact Sheet #35.)

For rent controlled tenants, the order will generally not bar increase to the Maximum Collectible Rent (MCR). This increase may only be barred if the order found that an essential service was reduced. These are defined as heat during the part of the year when required by law, hot water, cold water, superintendent services, maintenance of front or entrance door security (including, but not limited to, lock and buzzer), garbage collection, elevator service, gas, electricity and other utility services, to both public and required private areas and "such other services when failure to provide and/or maintain such would constitute a danger to the life or safety of, or would be detrimental to the health of the tenant or tenants." Tenants and owners should review the rent reduction order to determine if the collection of increases due to a major capital improvement rent increase and/or individual apartment improvement rent increase are affected. (See related Fact Sheet #35.)

4. For rent stabilized tenants, a rent restoration order will not be issued until all services listed in the rent reduction order are corrected. For rent controlled apartments, partial rent restoration orders can be issued. Owners who want to file for a rent restoration can use form RTP-19. This form is also available online at www.hcr.ny.gov.

EXAMPLES

Example #1

- Ms. Williams, a rent stabilized tenant residing in New York City, receives a rent reduction order for a broken window on November 23, 2023. It has an effective date of September 1, 2023.
- She has a two year renewal lease in effect which commenced on August 1, 2023, at a rent of \$2100 (\$2000 + 100.00 (5.00%)). Prior to that renewal lease guideline increase, her rent had been \$2000.
- On December 1, 2023, Ms. Williams's rent will be reduced to \$2000, effective September 1, 2023. If the owner does not file a Petition for Administrative Review (PAR), he or she will also owe Ms. Williams a \$100.00 refund for each of the three months of September, October, and November: totaling \$300.00. Said refund for these three months is not immediately collectible if the owner files a PAR. However, the rent remains reduced to \$2000.

Example #2

- Ms. Cohen, a rent controlled tenant, receives a rent reduction order for a broken window on October 15, 2023. Her Maximum Collectible Rent (MCR) is \$1650.
- The order states the rent reduction is for \$8.
- On November 1, 2023, Ms. Cohen's rent will be reduced to \$1642 (\$1650 - \$8). There is no retroactivity, and she is not owed a refund for previous months.

Owners or Tenants can submit affidavits by a licensed architect or engineer to support their complaint, answer or application

See Policy Statement 96-1, Third Party Certification for a complete discussion. Essentially, an owner supplied affidavit that conditions have been corrected can be rebutted by the tenants by the submission of a statement by at least 51% of the complaining tenants that the conditions still exist or by a tenant submitted counter affidavit by a licensed architect or engineer.

SOURCES

New York City Rent Stabilization Code
 Tenant Protection Regulations
 New York City Rent and Eviction Regulations
 New York State Rent and Eviction Regulations

RELATED MATERIALS

FACT SHEET #3
Required and Essential Services



➤ **Rent Connect:**
rent.hcr.ny.gov

✉ **Ask a question:**
portal.hcr.ny.gov/app/ask

🗣️ **For translation help:**
hcr.ny.gov/language-accessibility

➤ **Our website:**
hcr.ny.gov/rent

To visit a Borough Rent Office, by appointment only, please contact:

QUEENS
 92-31 Union Hall Street
 6th Floor
 Jamaica, NY 11433
 718-482-4041

BROOKLYN
 55 Hanson Place
 6th Floor
 Brooklyn, NY 11217
 718-722-4778

UPPER MANHATTAN
 163 W. 125th Street
 5th Floor
 New York, NY 10027
 212-961-8930

LOWER MANHATTAN
 25 Beaver Street
 New York, NY 10004
 212-480-6238

BRONX
 1 Fordham Plaza
 4th Floor
 Bronx, NY 10458
 718-430-0880

WESTCHESTER
 75 South Broadway
 3rd Floor
 White Plains, NY 10601
 914-948-4434