

HOW TO GET YOUR LANDLORD TO MAKE REPAIRS

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Problems Around the Apartment

I. Common Law Remedies

At common law, it is said that there is no legal stricture against letting out a tumble down house. The tenant and the landlord were free to enter into any arrangement regarding the condition of the premises and repair of it that they thought fair. It was only if the lease agreement contained a Warranty of Habitability and a Covenant of Quiet Enjoyment that the tenant could do anything about it in court.

But as time progressed, the law began to modernize and take a different view of the obligations of the parties. Courts began to construe all residential lease agreements (oral, written, and implied) as containing these provisions of quiet enjoyment and habitability.

A. Warranty of Habitability

Black's Law Dictionary defines the Warranty of Habitability as an "Implied warranty of a landlord that the leased premises are properly maintained and are fit for habitation at the time of letting and will remain so during the term of tenancy."

B. Covenant of Quiet Enjoyment

Black's Law Dictionary defines the Covenant of Quiet Enjoyment as "An assurance against the consequences of a defective title, and of any disturbances thereupon. A promise by the landlord or grantor that the tenant or grantee will not be evicted or disturbed by the grantor or a person having a lien or superior title."

C. Contract Lawsuit

You could sue the landlord for the fact that the premises are not in the condition promised, but this is a cumbersome tool, especially if you are going to hire a lawyer to do it. By the time the lawsuit is finished, you likely won't be living at the apartment any more. So this was a remedy of limited utility.

But, if the premises were in bad shape all year long, despite your repeated complaints to the landlord, and you can show this with evidence, you might want to think about suing for diminished rental value when the lease is concluded, and you are suing the landlord anyway for the return of the security deposit. The idea is that you were paying \$600.00 per month for an apartment in Condition A, and what you got for your full payments was an apartment in Condition D. The tenant is qualified to give an opinion of what he thinks the apartment was worth while he was living there. Again, this might help you feel better about things when all is said and done, but it won't get the broken furnace working in the middle of the winter.

II. Statutory Rights

The law advanced further in 1974 with the passage of the Ohio Landlord Tenant Act. Ohio Revised Code Section 5321.04 defines the duties of the landlord to the tenant in any residential rental agreement, whether oral, written, or implied. Keep in mind that the statute does not apply to commercial property not used for residential purposes.

A. Text of the Statute

§ 5321.04 Obligations of landlord.

(A) A landlord who is a party to a rental agreement shall do all of the following:

- (1) Comply with the requirements of all applicable building, housing, health, and safety codes that materially affect health and safety;
- (2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;
- (3) Keep all common areas of the premises in a safe and sanitary condition;
- (4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by him;
- (5) When he is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of a dwelling unit, and arrange for their removal;
- (6) Supply running water, reasonable amounts of hot water and reasonable heat at all times, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection;
- (7) Not abuse the right of access conferred by division (B) of section [5321.05](#) of the Revised Code;
- (8) Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of his intent to enter and enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary.
- (9) Promptly commence an action under Chapter 1923. of the Revised Code, after complying with division (C) of section [5321.17](#) of the Revised Code, to remove a tenant from particular residential premises, if the tenant

fails to vacate the premises within three days after the giving of the notice required by that division and if the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in that division. Such actual knowledge or reasonable cause to believe shall be determined in accordance with that division.

(B) If the landlord makes an entry in violation of division (A)(8) of this section, makes a lawful entry in an unreasonable manner, or makes repeated demands for entry otherwise lawful that have the effect of harassing the tenant, the tenant may recover actual damages resulting from the entry or demands, obtain injunctive relief to prevent the recurrence of the conduct, and obtain a judgment for reasonable attorney's fees, or may terminate the rental agreement.

B. Translation of the Statute

The above text requires that the landlord do whatever is necessary to put and keep the premises in a fit and habitable condition for the tenant. It is difficult to make a listing of problems covered by this section, but I will try. Just because you don't see your particular problem listed here does not mean that it is not covered. Rather it means that I lacked the imagination to foresee it.

Keep in mind while reading this list that if you caused any of the problems listed below, you cannot use them as a basis for an action for a breach of Ohio Revised Code 5321.04 (unless your actions were no more than normal usage of the apartment). Conditions which would be a violation of R.C. 5321.04 are things like the furnace or hot water heater going out, the failure of the central air conditioning system, leaky plumbing, sparking outlets or fuses that blow from normal usage. Other examples would be sewage back ups or windows and doors that won't close or aren't weather tight.

C. Additional Landlord Obligations

The landlord may impose extra obligations than the ones listed above upon himself by way of the rental agreement. If the landlord agrees in the rental agreement to build a privacy fence around the backyard before the tenant moves in, then courts will enforce this obligation as well. Keep in mind that if you have a written lease, and the landlord's oral promise isn't in there, then you are almost certainly out of luck when it comes to enforcing this promise in court.

D. No Transfer of Landlord's Statutory Obligations