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Getting Repairs

You have the legal right to live in a home that is safe and healthy. You must follow the law to get bad rental housing repaired. To fix problems that make a home unsafe, the law divides the duties between the landlord and the tenant. How these duties are divided depends on whether your rental housing is covered by the Virginia Residential Landlord Tenant Act (VRLTA)

What rental housing does the Virginia Residential Landlord-Tenant Act cover?

You are covered by the VRLTA if you live in an apartment building or in any type of multi-family housing. Multi-family housing means you share heating, hot water, entry and exit, or some other service with another dwelling unit in the same building. As of July 1, 2014, you also are covered if your landlord rents out more than two rental units. You also are covered if you live in a hotel, motel or other temporary rental place for more than 90 days.

What duties do all landlords have?

Under Virginia law, all landlords must do these things.

- Follow building and housing codes affecting health and safety.
- Make all repairs needed to keep the place fit and habitable.
- Keep in good and safe working order all electrical, plumbing, sanitary, heating, ventilating, air conditioning, and other facilities and appliances that the landlord supplies or must supply.
- Supply water, hot water, air conditioning if provided, and heat in season; unless the tenant alone controls the heat, air conditioning, or hot water, or unless provided directly by a utility company to the tenant on a separate meter.

You and the landlord may agree in writing that you will do some of the landlord's duties, except the duty to follow building and housing codes affecting health and safety. The landlord must do this no matter what. If you and the landlord agree that you will do some of the landlord's duties, this must be in writing and must be done in good faith. A writing that tries to shift to the tenant any duties which can't be shifted cannot be enforced.

What extra duties do landlords covered by the VRLTA have?

Landlords covered by the VRLTA must do these extra things.

- Keep clean and safe any common areas used by more than one tenant household.
- Provide and keep up trash containers (except for single family houses).

You and the landlord may agree in writing that you will do these extra landlord duties. The landlord must follow building and housing codes, make repairs, and keep in good shape the electrical, plumbing, sanitary, heating, ventilating, and air conditioning (if supplied), no matter what. If you and the landlord agree that you will do some of the landlord's extra duties, this must be in writing and must be done in good faith. A writing that tries to shift to the tenant any duties which can't be shifted cannot be enforced.

What duties do all tenants have?

Under Virginia law, all tenants – whether covered by the VRLTA or not – must do these things.

- Keep your rented space and plumbing as clean and safe as conditions permit.
- Use all utilities and appliances reasonably, and get rid of trash.
- Not destroy or mess up the property, or allow anyone else to.
- Not disturb your neighbors, or allow anyone else to.
- Follow the lease and reasonable rules of your landlord.

What should I do if something needs fixing?

Some tenants just stop paying rent when something goes wrong. This is a bad idea that can get you evicted. There is a legal and effective way to get bad conditions fixed. **However, you must be current in your rent and stay current.** You have five steps to follow.

- 1) Identify the problem and who is responsible.
- 2) Get your proof together.
- 3) Give proper notice to your landlord.
- 4) Allow a reasonable chance for your landlord to repair.
- 5) Take the case to court if necessary

How do I identify the problem?

Try to figure out the cause of the bad condition. For example, if water is leaking from your ceiling, try to figure out if it comes from a roof leak, or a tub or toilet upstairs. Figure out if anyone in your household caused the problem. Figure out from the list above whether the landlord or the tenant is responsible for fixing it. While you're at it, make a list of all the problems in your home, so they all can get fixed.

How do I get my proof together?

For most housing problems, the best proof is an inspection by the local building inspector. Make an appointment to meet the inspector at your home. Have a list of the problems to point out as the inspector goes around.

If you can't get an inspection, or even if you can, you may want to take pictures or a video of the problems. You also may want to have a trusted person look at the problems so they can be a witness if necessary.

How do I give notice to the landlord?

If the problem is one that the landlord should fix, you must give notice. If the inspector has found serious problems, the inspector's letter to the landlord is enough notice of the problem so the landlord will be held responsible. If there is no inspection letter, or if you just want to be sure, you should give notice to the landlord yourself. Your notice must follow these rules.

- Your notice must be in writing. You should keep a copy for yourself.
- Your notice should list all the problems that need fixing. Don't just assume the landlord knows about them because of your previous complaints.
- Your notice should give the landlord a time by which to fix each problem.
- You must mail your notice to your landlord. Take it to the post office & mail it certified mail, return receipt requested. Save the certified mail receipt & the green return receipt.

How much time should I give my landlord to makes repairs?

You must give the landlord enough time to reasonably make the repairs. If the problem is an emergency (such as no heat in winter, or no water), your landlord must fix it immediately. This means within hours, or at most a day or two. For other repairs, you should give a reasonable time, such as 10-15 days, to make the repairs needed.

You also must give the landlord access to your home to make the repairs. If it is not an emergency, the landlord will need your permission to come into your home to make repairs. You should make this as easy as possible by giving permission in your notice letter. You also may tell your landlord, in your letter, what times of day are best, or how to reach you for permission. Don't give the landlord any excuse to say you wouldn't cooperate when he tried to repair.

What should I do if the repairs aren't made?

If repairs aren't made in a reasonable time, you can take your landlord to court with a "rent escrow" case. You may do this whether or not your home is covered by the Virginia Residential Landlord and Tenant Act (VRLTA). At this point, it probably is best to get legal help. To use this procedure, you pay your full rent into court within 5 days of the date the rent first comes due. You fill out a "Tenant's Assertion and Complaint" form at the General District Court for the county or city where you live. You can attach a copy of the inspection report or your letter to the landlord. You also can list the bad conditions on the form. To file and serve the papers will cost about \$56. If you can't afford the filing and service fees, ask for the "Petition

for Proceeding in Civil Case Without Payment of Fees or Costs.” This also is called “Form CC-1414.”

When you fill out the Tenant’s Assertion, you need to decide what you want the judge to do. You can ask the judge for any of these things.

- To order repairs completed before your rent is released to the landlord.
- To order repairs and return of some (or all) of the rent money to you for having to put up with the bad conditions.
- To order your lease ended so you can move out without paying future rent.

You should ask the clerk to subpoena the building inspector if there was one, and any other witnesses who have agreed to help you. Subpoenas cost \$12 each unless your filing fees were waived. The court sets a hearing day and has the landlord served with a summons to court.

What happens at the court hearing?

Before the hearing date you should get together your list of problems, a copy of your notice letter, certified mail receipt, green return receipt, the inspector’s report, any pictures or videos, and your rent receipts. When the case is heard, you will present your evidence first. The landlord or judge may ask you questions. Ask the inspector and your witnesses to testify after you. Then the landlord gets to present evidence and witnesses. You can question them about what they have said, but don’t argue with them.

If you do not come to court on your trial date, the court will dismiss your lawsuit. If you come to court and the other side does not, you should get a judgment. If both sides come to court, the judge will hear both sides and decide who wins.

Can I just move if my landlord won’t make repairs?

Not without penalty. If you do not get a court order allowing you to end your lease early, your landlord can hold you legally responsible for rent for the rest of the lease period.

After your landlord knows you are moving, your landlord has a duty to find another tenant. Your landlord must try to lower the lost rent by trying to rent to someone else. If your landlord (or you) find another tenant, then you are not legally responsible for the part of your rent the new tenant pays.