



VIRGINIA
LEGAL AID
SOCIETY

REPAIRS and MAINTENANCE of RENTAL PROPERTY

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.

Generally speaking, the Virginia Residential Landlord Tenant Act, or VRLTA, applies to all residential tenancies unless the landlord is eligible to opt out, and states this in a written lease. The VRLTA also applies to stays in hotels, motels, or boarding houses if the tenant has been renting for more than 90 days or has a written lease for more than 90 days. Even if your rental is not covered by the VRLTA, there may be other state laws that apply to your situation. If you do not know which law applies, you should seek advice from an attorney.

What duties do landlords have?

Under Virginia law, most 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 (livable).
- Keep the common areas clean and safe.
- 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. This includes maintaining a carbon monoxide alarm installed by the landlord. The landlord must install a carbon monoxide alarm if the tenant requests it in

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writing, and it must be done within 90 days after the request is made. The landlord can charge the tenant a reasonable fee for the installation.

- 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.
- Maintain the place so as to prevent the accumulation of moisture and the growth of mold.
- Promptly get rid of mold when it appears.
- Prevent or remove infestation of rodents.
- 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 some of the landlord's duties, except the duty to follow building and housing codes affecting health and safety. The landlord must do that no matter what. The things that the landlord and tenant can agree the tenant will do are to keep the common areas clean and safe, provide trash receptacles and removal of trash, and provide water, air condition, and heating. 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 the law does not allow to be shifted, cannot be enforced.

What duties do all tenants have?

Under Virginia law, all tenants must do these things:

- Keep your rented space and plumbing as clean and safe as conditions permit.
- Make reasonable efforts to keep the premises so as to prevent accumulation of moisture and growth of mold. Promptly notify the landlord of excess moisture and growth of mold.
- Keep your rented space free from pests and insects, and promptly notify the landlord of the existence of them in your unit.
- Use all utilities and appliances reasonably, and get rid of trash.
- Not destroy or damage the property, or allow anyone else to.
- Not disturb your neighbors, or allow your household members or guests to do so.
- Follow the lease and reasonable rules of your landlord.
- Pay your rent on time.

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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.

What about bed bugs?

As explained above, the landlord is legally obligated to maintain your rented space so that it is a fit, safe, and healthy place to live in. The presence of bed bugs makes a place *not* habitable. Therefore, the landlord has a responsibility to get rid of bed bugs at the landlord's expense.

Remember that you, as the tenant, also have an obligation to keep your place free from insects and pests. And, you have the obligation to promptly notify the landlord of the existence of insects and pests. You can be held responsible for the costs of treatment or extermination if you unreasonably delay reporting the problem to the landlord, or if you are at fault in failing to prevent the infestation.

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.

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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.

TO REPORT A CODE VIOLATION, CALL YOUR CITY/COUNTY BUILDING INSPECTOR'S OFFICE AT THE FOLLOWING NUMBER:

Amelia - 804-561-3039	Franklin - 757-562-8580	Nottoway - 434-645-8696
Amherst - 434-946-9302	Greensville - 434-348-4232	Patrick - 276-694-4143
Appomattox - 434-352-8183	Halifax - 434-476-3300	Pittsylvania - 434-432-7755
Bedford - 540-587-6021	Henry - 276-634-4615	Prince Edward - 434-392-8838
Brunswick - 434-848-2962	Isle of Wight - 757-365-6213	South Boston - 434-476-3300
Buckingham - 434-969-4242	Lunenburg - 434-696-2143	Southampton - 757-653-3011
Campbell County - 434-592-9596	Lynchburg City - 434-455-3910	Suffolk City - 757-514-4150
Charlotte - 434-542-5094	Martinsville City - 276-634-4615	Sussex - 434-246-4390
Cumberland - 804-492-9114	Mecklenburg - 434-738-6191	
Danville - 434-799-5263		

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 make 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

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time, such as 10-15 days, to make the repairs needed. (The law presumes that more than 30 days delay in making repairs is unreasonable.)

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 and I'd like to move out?

If the landlord fails to fix problems that affect health and safety even after you've demanded repairs, you may give a 21/30 day notice to terminate the lease. This means that you can send a written notice saying that if the problems are not fixed within 21 days, then the rental agreement will terminate in 30 days from the date of your notice. If the problems can't be fixed, then you can just give a 30-day notice to terminate the lease. **CAUTION** with this approach, because the landlord may try to sue you for rent for the months left in the lease. If that happens, then you would have to defend against the lawsuit by proving that you were justified in breaking the lease due to the conditions in the rental.

What should I do if the repairs aren't made and I'd like to stay in the home?

If repairs aren't made in a reasonable time, you can take your landlord to court with a "rent escrow" case. To use this procedure, you must be current on your rent to your landlord. At this point, it probably is best to get legal help.

To use the escrow 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, #DC-429, at the General District Court for the county or city where you live. You should attach a copy of any inspection report and your letters to the landlord. You also can list the bad conditions on the form. To file and serve the papers will cost about \$38. 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" also called form "Form CC-1414."

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

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- 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. In a Tenant's Assertion case, the judge can terminate the lease only if you request it. If the landlord wants it terminated, that has to be done as part of a separate Unlawful Detainer action brought by the landlord.

You should ask the clerk to subpoena the building inspector if there was an inspection, 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 appear in court. The hearing will be held within 15 days of the time the landlord is served with notice. But the hearing may be earlier if it's an emergency such as lack of heat, sewage, or other health or safety issues.

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, your lease (if written), 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.

What notice does my landlord have to give me before coming into my place to make repairs?

If it's an emergency, the landlord is allowed to enter without first getting your consent. Otherwise, the law says, in general, that the landlord must give reasonable advance notice and may enter only at reasonable times. The law also says the landlord must give at least 24 hours' notice of routine maintenance to be done that was not requested by you.

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The landlord must give you at least 48 hours' notice of their intent to apply insecticides or pesticides. If you are the one who requested that they do the application, then the 48 hour notice requirement does not apply.

Can my landlord make me move somewhere else while repairs are being done?

If your rental is covered by the VRLTA, your landlord can require you to move elsewhere while repairs are being made, but there are conditions that must be met. If the landlord decides that:

- there's a condition that needs to be repaired,
- the condition is not an emergency, and
- it's necessary for you to move out in order for the repairs to be made,

then the landlord may

- give you at least 30 days' notice to temporarily move into a place selected by the landlord, not to exceed 30 days
- that's comparable to the place you're renting
- at no cost to you
- but you still need to continue paying your usual rent while you're out and repairs are being made.

If repairs are needed due to mold, that is, mold remediation, the landlord can require you to move out for a period not to exceed 30 days. This is true whether or not your rental is covered by the VRLTA. The landlord must provide either a comparable dwelling unit or hotel room at no cost to you. You continue to be responsible for the payment of your usual rent. The landlord is required to pay all costs of the mold remediation. The landlord is also required to pay all the costs of your relocation, such as moving expenses.

THIS INFORMATION IS NOT LEGAL ADVICE. Legal advice is dependent upon the specific circumstances of each situation. Therefore, the information contained in this pamphlet cannot replace the advice of competent legal counsel.

Free Legal information by Web and Phone: www.vlas.org and
1-866-Leg1Aid (534-5243)

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