

# HABITABILITY & ESSENTIAL SERVICES

*Your Rights as a Tenant: A Fact Sheet from Nevada Legal Services, Inc.*



## **What does habitability mean?**

A dwelling is not habitable if it violates provisions of housing or health codes concerning health, safety, sanitation, or fitness for habitation or if it substantially lacks (NRS 118A.290):

- (a) Effective waterproofing and weather protection of the roof and exterior walls, including windows and doors.
- (b) Plumbing facilities which conformed to applicable law when installed and which are maintained in good working order.
- (c) A water supply approved under applicable law, which is:
  - (1) Under the control of the tenant or landlord and is capable of producing hot and cold running water;
  - (2) Furnished to appropriate fixtures; and
  - (3) Connected to a sewage disposal system approved under applicable law and maintained in good working order to the extent that the system can be controlled by the landlord.
- (d) Adequate heating facilities which conformed to applicable law when installed and are maintained in good working order.
- (e) Electrical lighting, outlets, wiring and electrical equipment which conformed to applicable law when installed and are maintained in good working order.
- (f) An adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the commencement of the tenancy. The landlord shall arrange for the removal of garbage and rubbish from the premises unless the parties by written agreement provide otherwise.
- (g) Building, grounds, appurtenances and all other areas under the landlord's control at the time of the commencement of the tenancy in every part clean, sanitary and reasonably free from all accumulations of debris, filth, rubbish, garbage, rodents, insects and vermin.
- (h) Floors, walls, ceilings, stairways and railings maintained in good repair.
- (i) Ventilating, air-conditioning and other facilities and appliances, including elevators, maintained in good repair if supplied or required to be supplied by the landlord.

## **What are essentially services?**

Essential services include heat, running water, hot water, electricity, gas and a functioning door lock. Air conditioning may be considered essential if the lease requires the landlord to provide it or if the landlord actually provides it.

## **What do I do if my landlord is not providing a habitable unit?**

You must give your landlord 14 days written notice of each problem with the unit and demanding repair. Your landlord then has 14 days to make the repairs or a good faith effort to make the repairs.

If your problem is an essential service, you only need to give your landlord 48 hours notice (excluding weekends and holidays) instead of 14 days notice.

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Call 711 for relay services

[www.nevadalegalservices.org](http://www.nevadalegalservices.org)

## Resources

You can access additional information and forms on the NLS website at [nlslaw.net](http://nlslaw.net).

For additional information and resources in Southern Nevada:  
[civillawselfhelpcenter.org](http://civillawselfhelpcenter.org).

For general forms, including fee waivers statewide:  
[selfhelp.nvcourts.gov](http://selfhelp.nvcourts.gov).

### *What if my landlord does not make the repairs within 14 days/48 hours?*

After the time of the notice has expired, if the landlord has not made a good faith effort to make the repairs, you can:

- **Repair/Get the Service & Deduct:** If the costs of the repair are less than one month's rent, you can make the repairs yourself and deduct the cost from next month's rent after providing itemized statement of work done. This can only be used once in a 12 month period and the lease agreement can specify the person to perform the repair. NRS 118A.360. For essential services, the tenant can pay for essential items or services and deduct the actual cost from the rent. NRS 118A.380(1)(a).
  - **Move out:** You can terminate the rental agreement and demand the remainder of the month's rent and security deposit. NRS 118A.355.
  - **Recover actual damages:** Keep receipts and records of the money spent as a result of the failure to keep the unit habitable. For essential services, this can include damages based on the lack of use of the premises or diminution in fair rental value of the unit. NRS 118A.355, 118A.380.
- **Withhold rent:** You can withhold your rent to force the landlord to comply with your request to make repairs. If your landlord tries to evict you for non-payment of rent, you must deposit the rent with the Justice Court in order to raise this as a defense to the eviction. NRS 118A.355. If your landlord makes the repairs, you may owe the full amount of your rent. If you are withholding rent for an essential service, you cannot withhold rent unless you are current on your rent. NRS 118A.380.
  - **Obtain substitute housing:** For an essential service violation, you can move somewhere else that is comparable to your current unit while you do not have the essential service. During this time you do not owe rent to your landlord. If the rent is more than your normal rent, and is reasonable, you can recover the difference from your landlord. NRS 118A.380(1)(d).

### *What if my children caused the problem?*

None of this applies if the condition was caused deliberately or negligently by the tenant, a member of the tenant's household, or a guest of the tenant. The tenant must also give the landlord necessary access to the unit to make the repairs.

### *Can I still do the above if I have not given my landlord written notice of the problem?*

No, unless your landlord has gotten written notice from another agency responsible for violations of building, housing or health codes, such as Code Enforcement or a Housing Authority. Your landlord must receive notice in writing of the violations and the time period of that notice expire before you can take any of the above remedies.

### *What if I am behind in rent but want to withhold rent?*

For essential services violations, you must be current with your rent in order to withhold rent. For other habitability violations, you can only withhold future rent and may be subject to eviction for past rent. Also remember that you must deposit your withheld rent with the Justice Court in order to raise habitability as a defense to any eviction.

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## TENANTS' RIGHTS CENTERS

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Nevada Legal Services offers 2 Tenants' Rights Centers—one in our Las Vegas office and one in Reno. Please feel free to contact either Center for further assistance and information if you are a tenant facing eviction or other housing issues:

Las Vegas TRC: (702) 383-6095

Reno TRC: (775) 284-3491 x. 316 or email to [renotrc@nlslaw.net](mailto:renotrc@nlslaw.net).