

NEW YORK CITY CIVIL COURT

NYC Civil Court Community Seminar Series

"Need Repair"

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[START TAPE 1 SIDE A]

MR. NORI: Hello, my name Sateesh Nori. Welcome to A Tenant's Guide to a Safe, Healthy and Habitable Apartment.

I am a lawyer at the Legal Aid Society and today we will be talking about conditions and repairs in apartments. Now the subjects of today's lesson will be what are the landlord's obligations? What makes an apartment safe, healthy and habitable? What can I do if the landlord doesn't maintain my apartment? Also, can I fix my apartment myself?

Next, how do I take my landlord to court? Also, what about a rent strike? And, finally, can I file a complaint with the city or the state.

Now, just before we get started let me just note that this is a guide for tenants who want to improve conditions in their apartment. The elements of this lecture and the elements of the written

materials are for information purposes only. You probably would want to consult a lawyer or get additional advice if you actually want to take your landlord to court.

Let's get started. What are the landlord's obligations? A landlord is required by law to maintain an apartment in good condition or proper living condition. The landlord is required to follow all the laws that we will talk about today, including the Housing Maintenance Code, the Multiple Dwelling Law, the Building Code, the Health Code and other laws.

So the first major issue is what is the warranty of habitability? The warranty of habitability has three elements: Safety that the landlord has to provide essential functions of a residence. Help that the occupants of an apartment will not be subjected to

hazardous conditions and next, habitability. This is a legal term, but basically what it means is that the premises are fit for human habitation.

So what makes an apartment safe, healthy and habitable? Let's talk about safety. A landlord has a duty, and a duty is another word for a legal obligation to protect all occupants of an apartment and an apartment building from physical injury or harm.

What are the elements of safety? Well, one of the first elements is lighting. An apartment in a building has to be properly lit so that people don't get hurt. Lights have to be working in every public hall or stairwell. They have to be burning continuously in every fire stairwell and fire tower and in every stair in public halls. Also, if there is a courtyard or an entrance the lights have to be on when the sun goes down.

If the lights aren't working in any part of your apartment building or public area, including the laundry room that is a violation.

Next, peepholes. Now to the front door of your front door of your apartment you have to have a peephole and a peephole is just a piece of glass that you can look out of and see how is knocking on your door. A landlord is required to have a working peephole in the entrance to your apartment. If they don't have one that threatens your safety, you don't know who is knocking at the door. So that's a violation.

Along these lines mirrors in elevators, if you have an elevator in your building the landlord is required to put a mirror inside the elevator so before you enter the elevator you can see who is inside.

Next, the landlord is required to

put locks on the door to your apartment. Now the type of lock that is required is a lock with a key from the outside and thumb turn from the inside. Some tenants have what is called double barrel locks. These are illegal. These are locks that require a key from the inside and the outside. The reason these are illegal is because if there is a fire in your apartment and you have a lock from the inside that requires a key, you may not be able to get out if you don't have the key. If you have one of those locks make sure that you have it changed.

The next issue is how many keys do I get and what's the landlord required to do. Well, the law says that non duplicable keys should be furnished free of charge to all residents and members of their immediate families over ten years of age. Additional keys should be available only upon payment of \$10 and after some

scrutiny.

So the first issue is the landlord has to give you a key and has to give a key to adult occupants of the apartment and children over the age of ten if they are part of your immediate family. And if you want other keys you can request them and the landlord can charge you a small fee, but may ask you about who you are giving the keys to.

Floor signs, the floor outside of your apartment has to have a sign that indicates what floor number that is and this is for the Fire Department and for other emergency situations. So if the lights go out or if there is smoke or fire, someone can easily read what floor they are if they are trying to get out of the building.

Street numbers, the outside of the building should have the street number posted.

And next the landlord has a duty to provide electric lighting equipment in your apartment. The rooms that they have to provide electric lighting are the hallways, the kitchens and the bathrooms. They don't have to provide electric lighting fixtures in your bedrooms or in living rooms, but they have to provide outlets so you can plug in a lamp. They are not responsible for the bulbs. Tenants are responsible for making sure the bulbs are working but the landlord has to make sure that the light fixture is working.

Next let's move on to health. We talked about safety, the next issue is health. The primary thing when you are talking about health in an apartment is heat. The landlord has to provide heat during the winter season.

Well, what's the winter season? Technically, according to the law, winter

starts October 1st, even if it is 80 degrees on October 1st the winter season goes from October 1st through May 31st, even if it is warm at the end of May, okay. So during that period of time, October 1st through May 31st, the law requires the landlord to provide heat to all tenants.

Well, what's the minimum that they are required to provide? Building owners are required to provide heat during the heating season between 6 A.M. and 10 P.M. if the outside temperature falls below 55 degrees, the inside temperature is required to be at least 68 degrees. Between 10 P.M. and 6 A.M. or nighttime, if the temperature outside falls below 40 degrees the inside temperature is required to be at least 55 degrees.

So if you are feeling cold right now we are in heating season and so the landlord should be providing heat. On a

day like today there should be heat in your apartment. If there isn't heat you should call 311 and we will talk about what that means later on.

Hot water, tenants are--the landlords are required to provide hot whatever 365 days a year, every day. You should always have hot water. One question is I have hot water but sometimes it is too hot. Well, that's also against the law. The water should be about 120 degrees coming out of the tap. If it is too hot and you can get scalded or burned, that's a violation. Okay.

Next, carbon monoxide, this is a new law, but the landlords are required to provide a carbon monoxide alarm. It is kind of like a smoke detector, but it detects carbon monoxide, which is the same gas that comes out of the tailpipe of your car. It is highly poisonous. So the law requires that the landlord provide a

detector in case carbon monoxide leaks or is present in your apartment.

Next the landlord has to clean the apartment building and the areas common in the apartment building. For example, the landlord for buildings of two or more dwelling units, or big apartment buildings, shall keep the roof, the yards, the courts and other open spaces clean, free from dirt, filth, garbage or other offensive material. There shouldn't be cardboard boxes or construction materials or garbage or any other refuse in the hallway, in the stairwell, on the roof, in the basement, in the laundry room or any other parts of your building.

Why? Because number one, this is a fire hazard and number two, it is unsanitary. That's why you get rats and roaches and other vermin.

Next the landlord has to maintain the public parts of a building in a clean

and sanitary condition. Somebody should be mopping and sweeping regularly the common areas of your building. If they don't do that, it is a violation. And, again, this is an issue of health. It is an issue of public health.

Next now the tenant is responsible for cleaning the inside of their apartment. The landlord isn't responsible for that. So make sure that you maintain your apartment in a way that is healthy and safe for your family.

The next issue is rodents and insects, so what is the obligation when it comes to rats and roaches? Well, the landlord has to keep the premises free from rodents and from infestations of insects and other pests, so they have to continuously exterminate your apartment and the building continuously or as needed. So is it once a month? Is it every two weeks? It is based on how bad

the problem is. They have to exterminate until the problem is solved, okay. It is not your responsibility, it is the landlord's responsibility to make sure that your apartment and the building is free from rats and roaches and other vermin.

And this brings us to garbage. Well, what do you do about garbage in your building? Well, again, the landlord is responsible for providing and maintaining metal garbage cans or other approved garbage cans. Now the lids have to close and seal the garbage cans. The garbage shouldn't be overflowing from the tops of the cans. Why, because, again, this is an issue of public health. If the garbage is overflowing, if the lids aren't securing the cans, if the cans aren't hard metal or plastic, rats and roaches and other vermin can get into the garbage and that's what they feed off of.

So it is the landlord's responsibility to make sure that the garbage cans are solid, that they close and that they are hard enough to prevent vermin.

If the garbage is inside your building, if there is a garbage room under the stairs or in the basement, that room has to be sealed. There shouldn't be rats and roaches in the garbage room. That room should be cleaned and maintained in a healthy and sanitary condition and the garbage has to be taken out regularly. If the garbage is allowed to pile up that creates a problem for the entire building and soon enough your apartment may have rats and roaches, even if your apartment is clean, if the garbage room is not maintained properly.

Now how often does the landlord have to collect the garbage? Well, the waste matter should be collected at least

once daily and deposited in separate receptacles. The owner also shall post and maintain a notice in a conspicuous place in the dwelling informing the tenants of the hour and method of collection. So you need to know when they collect the garbage and how, so you can deal with it and make sure you take out your garbage at the relevant times.

Let's talk about water.

Obviously, the landlord has to provide water to your apartment, but it can't just be brown water or dirty water. It has to be water that is pure and wholesome and at sufficient quantity and pressure. So it has to be clean water. You should be able to drink the water out of your tap. It has to be of a sufficient pressure. Your shower head shouldn't be trickling water, it should be of a good pressure so you can take an adequate shower and it should be present all the time. There should be no

time during the day or night where water isn't available in your apartment.

Next, the landlord has to provide proper appliances and fixtures in order to distribute water during all hours. This means faucets and fixtures in your bathroom, in your kitchen. These have to be working and it is the landlord's responsibility to make sure that they work.

Also, the landlord has to maintain and provide plumbing and drainage systems including toilets and sinks in your apartment. Again, this is the landlord's responsibility.

Let's talk about lead paint. Now this is a new law but the landlord has to remediate or fix lead paint based hazards in any multiple dwelling where a child of applicable age resides. Now if you have a small child under the age of six who lives in your apartment and you think there is

paint chipping or other issues regarding the paint and you think there might be lead you have to tell your landlord. You should call 311. It is the landlord's obligation to fix and remove the lead paint no matter how much it costs or how long it takes, they have to do this to protect your family and young children are especially vulnerable to diseases that are caused by lead paint.

Now let's move on to habitability, which is the third prong of what the landlord's obligation is to a tenant. Again, habitability is a legal term that describes the landlord's duty to protect the safety, the health and the general livability of an apartment.

First, the landlord has to paint. They have to paint the walls, they have to cover the ceilings and walls with wallpaper or other adequate covering and they have to paint at least every three

years.

Now if your paint is chipping or your walls are cracked, they have to paint your apartment.

Next and I am going to speed up a little bit, we don't have a lot of time left, they have to remove junk, like I said before there shouldn't be any garbage, building materials, boxes in the public areas. They have to provide mail service. There should be mailboxes in the lobby or somewhere else in your building separated by apartments so that you can get your mail and that it is secure.

There should be a janitor or a super and you should be able to call that person twenty-four hours a day. You should have the super's number. It should be posted somewhere in your building and if there is an emergency that person should be able to respond. If they are not there, if you don't have a super,

that's a violation.

So let's move to what are your options if you find that these conditions exist in your apartment, what do you do? You have three options. Number one, you can complain to the landlord. Number two, you can complaint to the Department of Housing, Preservation & Development or HPD. This is the agency that responds when you call 311, and you complain to them by calling 311.

Finally, you can take your landlord to Court and you should probably proceed in this order. So the first thing you do is tell your landlord about the conditions, because if they don't know what is wrong with your apartment, they can't fix it. And if they can claim credibly that they didn't know about what was wrong in court, that's a defense.

So how do you tell your landlord? Well, write a letter and keep a copy of

it. What kind of letter? Put the date on it, put your name, put your apartment number and say, dear landlord, I am writing to inform you that there is a leak in my bathroom. I called the super and he never came to fix it. Please fix it immediately, I can be reached at the following phone number, signed Joe Tenant. Okay. Send it certified mail. Keep a copy of it, so later on you can prove that you sent notice to the landlord.

How do you complain to HPD? You call 311 and you call as often as you can until the problem is fixed. When you call 311 the city will send inspectors to your apartment. They will make a report of the things that they feel are wrong with your apartment, the violations. This report will be on file and it will also be sent to the landlord giving the landlord an opportunity to fix these things.

The next step is taking the

landlord to court. Now we only have two minutes, so let's go through this quickly. How do you take the landlord to court? Well, the first thing you do is again send a letter. The second thing is call 311. And the third thing is you come down to the courthouse and you have two options. Number one is the HP action. Now this is a case that tenants can bring against their landlords to sue them for not fixing their apartments.

How do you bring an HP action?

Well, the first step is you write the letter to the landlord, the second step is, you come to court with your landlord's name and address and you go to the clerk's office, the same place that you would fill out an order to show cause if you have ever been sued by your landlord and you have asked for more time. You fill out the paperwork, there are three forms, the order to show cause, the petition, in

which you put down what or why you are in court and the tenant's request for an inspection. So you fill out a form that tells the court and the inspectors all the things that you think are wrong with your apartment.

Also, you may be required to pay a \$45 fee for filing the case. If you can't afford the fee you can fill out an affidavit called a poor person's affidavit and the court may waive the fee. After that you will get a court date and you have to make sure that you serve the landlord and HPD with a copy of these papers.

When you come back to court you should bring with you photographs or log books or witnesses such as family members of neighbors who can testify should there be a trial about what happened in your apartment, how your apartment looks, what it is like to live in your apartment and

the landlord may assert certain defenses, such as they already fixed or they tried to fix or they couldn't get into your apartment. And after the trial may issue an order or you may agree to settle the case in writing in a stipulation. Either way the landlord will get a certain period of time to repair the conditions in your apartment. If they don't comply you can come back to court and ask to see the judge by bringing an order to show cause. On that date you can explain that the landlord didn't comply with the order or the stipulation and that they should be held in contempt or fined.

Now the judge can order that the landlord pay fines for not fixing your apartment. These fines are paid to the city, not to the tenant, but they are a good way to compel the landlord to fix your apartment and make sure that you are living in a safe, healthy and habitable

apartment.

So that's all we have time for.
Again, my name is Sateesh Nori. Thank
you, very much.

[END TAPE 1 SIDE A]