

ASK REAL ESTATE

How Do I Get My Landlord to Compensate Me?

When you pay for something the landlord should have provided, withholding rent may spur action — though it's not without risk.



By Ronda Kaysen

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Q: For the past 15 years, I have lived in a rent-stabilized apartment in Manhattan. In early July, my oven broke and I texted the super. A few weeks later, after nothing was fixed, I contacted the managing agent requesting the repair and a rent reduction. It wasn't until October that a functional oven was finally delivered, and I paid my rent with a note explaining that I was deducting \$200 to cover the cost of a toaster oven, which I bought as a temporary solution. I got back a certified letter asking me to pay the \$200, plus \$155 in legal fees. Can I fight this?

A: You are entitled to live in an apartment with a functioning oven. Denying you one probably breached your warranty of habitability, a state statute. So, you may be entitled to a rent reduction.

"Withholding rent is fine," said Peter A. Schwartz, a Manhattan lawyer who specializes in rent stabilization and is head of the real estate department at the Manhattan law firm Graubard Miller. "It was intended that you have a working oven."

Because your apartment is rent stabilized, you could have filed a complaint of decreased services with the Division of Housing and Community Renewal, the state agency that oversees such apartments. You may have gotten a rent reduction from the agency, but since the problem has been corrected, that window has closed.

However, it is not too late to make a warranty of habitability claim. You could sue the landlord in small claims or civil court. If you win, a judge could award you the \$200, or more.

Or, you could do nothing. You gave management written notice and communicated the problem to them. You've created a paper trail. Don't repay the \$200 or the legal fees, and see what happens. Management might drop the issue, at which point you could just move on. Or, they might take you to housing court for nonpayment of rent. Housing court is not without risk, as you could end up on a tenant blacklist. But even if you lost the case, you would not lose your apartment, and you have a strong defense, according to Mr. Schwartz. A judge could rule in your favor, awarding you the abatement, or increasing it.

As far as the legal fees are concerned, your landlord can only collect legal fees if they win a case against you in court, and only if your lease allows for it. But legal fees cut both ways: If you win the case, the judge could award you the legal fees.

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