

Please note: The information presented here does not constitute legal advice.

Legal Rent Withholding for Repairs

(Sec. 5321.07, 5321.08, 5321.09, 5321.10, Ohio Revised Code)

If the tenant reasonably believes that the landlord has failed to make repairs that are his responsibility, fails to keep the premises safe, or fails to meet the requirements of local or state health, safety and building codes, the tenant may take the following action:

- Notify the landlord about the conditions and request that they be corrected. The written notice/letter must be sent to the landlord or to the place where the tenant pays rent. The notice should be sent certified mail, return receipt requested. The tenant should keep a copy of this notice.
- The landlord must correct the condition within a reasonable time, depending upon how serious the problem is. In any event, the problem must be corrected within 30 days.

If the landlord fails to make the repairs, and the tenant is current in his/her rent payment, then the tenant has three options:

- The tenant may deposit the monthly rent with the Clerk of the Municipal Court. Deposits must be made on or before the normal rent due date. There is no filing fee and an attorney is not required; you will need a copy of the notice that was sent to the landlord.
- File a lawsuit requesting a rent reduction until the necessary repairs are made (and may ask the Court's permission to use the withheld rent to make the repairs.)
- Terminate the lease or rental agreement.

NOTE: The tenant must be current in rent payments for this section to apply. The actions listed above cannot be taken against the landlord who rents to three or fewer apartments and has made written notice of this fact to the tenant at the time that the tenant entered into the lease/rental agreement, nor does this section apply to dwelling units occupied by a student tenant.

If the landlord has failed to disclose his/her name and address and the name and address of his/her agents, the owner gives up the right to a notice before a tenant takes legal action.

Check with the court or an attorney for our local procedures before beginning a rent deposit process.

Landlord's Response to Rent Withholding

(Sec. 5321.09, Ohio Revised Code)

If a tenant has deposited rent with the Clerk of the Municipal Courts Office, the landlord may request release of the deposited rent on the grounds that the requested repairs have been completed. Upon written notice from the tenant stating that the repairs have been made, the Clerk will release the deposited rent, less any court costs to the landlord.

The landlord may apply to the court to obtain the release of the deposited rent on the grounds that one of the following four conditions was present:

- The tenant was not current in rent at the time the tenant deposited rent with the Clerk of Court;
- The landlord did not fail to perform any duty placed upon him by the lease or by any applicable law;
- The tenant did not give written notice to the landlord correctly;
- The landlord has made the necessary repairs and taken care of the problem.
If the court finds the matters claimed by the landlord are true, the court will order the release of the deposited rent.

A landlord can file a lawsuit against the tenant to recover damages, attorney fees, and court costs, if the notice provided by the tenant was to repair or remedy problems or damage caused by the actions or errors of the tenant, and/or that the tenant intentionally acted in bad faith in proceeding with the withholding action.