

## Important Information for Renters

If you are renter who has been affected by the tornado in North Minneapolis, there is some information below that could help you, depending on your situation. For assistance with rental problems or questions, you can get help from Legal Aid at 612-332-1441. Legal Aid's website also has a lot of great information and fact sheets that cover a lot of this information as well. Go to [www.lawhelpmn.org](http://www.lawhelpmn.org). You may also get help with a rental problem at Minneapolis Housing Services at 612-673-3003.

Below is information provided by HOME Line, a rental advocacy organization in Minnesota. We are not able to help Minneapolis callers at this time, but hope that this information can be helpful to those who need it.

### **What do I do if my apartment is unlivable?**

If the building you live in is destroyed, uninhabitable or unfit for occupancy through no fault of your own, then you have the right to move out and stop paying rent. In a *condemnation*, a government official (usually a city official) tells the tenant to vacate. This is one way to know that your home is unlivable so that **you no longer have to pay rent, and you can ask your landlord for your security deposit back in five days.**

A *constructive eviction* is different from a condemnation. In a constructive eviction, you decide that your rental unit is unlivable and then you leave. The catch is that there is no easy way to know exactly when a home becomes a good case for constructive eviction, unless it was totally demolished by (in this case) the tornado.

The hardest part with most constructive eviction cases is proving in court that the apartment was un-livable. To win a constructive eviction, you have to convince the judge that the rental unit is so unlivable that your lease should be broken. A landlord may try to enforce the lease to get you to pay future months' rent. S/he would have to take you to court if you refused to pay. This is the risky part for you, the tenant; if the judge believes the rental unit is livable, then you can be forced to pay the rest of the rent due under the lease in addition to court costs and attorney fees.

Here are some things to consider before deciding to leave your home due to serious storm damage:

- the longer you stay in the apartment unit during the period when there are poor conditions, the weaker your constructive eviction case will be. By staying in your home with the problem for months, you have shown that it is not an emergency issue; a judge might ask: "How did you continue to live there if it was life threatening?"
- If you do not stay at the apartment until you find somewhere else to live—then you are acting like it is unlivable.
- You are required to "give up possession" of the apartment for a constructive eviction to be valid. Keeping your property at the apartment or even holding on to the keys is enough to weaken or kill a constructive eviction case.

If your apartment or rental house was damaged by the storm, and you are not sure whether or not it is safe to continue living there, you may want to contact Legal Aid at 612-332-1441, Minneapolis Housing Services at 612-673-3003, or a city inspector for help deciding to leave under the constructive eviction law (MN Statute 504B.131). Once you have decided this is what needs to happen, be sure to take with you all of your belongings if you can, and turn in your keys to your landlord, along with a written statement explaining why you are breaking the lease and leaving. Sign, date and copy your statement for your own records.

## **Can I get my Security Deposit back if I can no longer live in my home?**

The short answer is Yes! If your apartment or rental house was condemned by the city, you have the right to your security deposit within about five days.

According to [Minnesota Statute 504B.178 subd. 3\(b\)\(1\)](#), you have the right to recover your full security deposit within five days of the legal condemnation of your apartment. If your rental unit that was hit by the storm is no longer habitable, it may qualify as a legal condemnation. Your request to the landlord for the deposit must be in writing, and it must be mailed first class, providing a forwarding address for the landlord to mail the check.

If you are now homeless because of the storm, you can provide an address of a relative or trusted friend or even if you are staying at a shelter, there should be a way for the landlord to know where to send you your check.

## **How do I sue my landlord for the security deposit if s/he refuses to pay me?**

### **File for a waiver (it costs money to file a complaint in court, unless you can't afford it) if you have a low income**

You can get an "IFP" if:

- Your income is at or below 125 percent of the federal poverty level;
- You receives public assistance; or
- You can show that you cannot pay the filing fee.

First, fill out any forms that you need to file for your conciliation court case or rent escrow case (in housing court).

Second, get an "Affidavit for an IFP" and fill it out (you can get one on the MN District Court website, <http://www.mncourts.gov/district/50/?page=1982>, or from the filing counter at the courthouse). The Affidavit for an IFP asks questions about all your sources of income (employment, child support, public assistance, etc.) and says that if a person lies on the form, s/he could be fined for it. When you are done filling out the form, **do not sign the Affidavit for an IFP** yet. You do not sign them until you are in front a notary at the courthouse.

Also, **make a copy of all your court documents**; when you submit the Affidavit for an IFP you will need to also turn in copies of all your other court documents.

Third, go to the courthouse and bring the original forms for your court filing, the extra copies you are going to turn in with the Affidavit for an IFP, the Affidavit for an IFP itself, a photo ID (driver's license or passport will work), and any necessary proof of financial need (such as an MFIP card, paychecks, tax returns, canceled check from a government agency or any other evidence of your financial status).

Fourth, visit the counter at the courthouse and tell them you want to request an IFP or "fee waiver." Here, they will watch you sign the Affidavit for an IFP. The clerks at the counter will tell you what to do next and exactly how it is submitted to the judge.

If you are granted your IFP order (if you file in the morning, you should know the results before the end of the work day), you must be careful to hold onto the court order because you will need it when you are asked to pay the filing fees.

### **Conciliation Court**

Conciliation court is basically small claims court. If you are trying to get your security deposit returned because your home is no longer livable and your landlord is not cooperating with you, you want to file your claim here instead of housing court.

The filing fee is around \$70 for most counties.

When you fill out your conciliation court form, there are some things you want to do.

1. Be specific about dates. For instance, when asking for your security deposit back, state the exact dates when you moved in, when you moved out and when you gave your landlord a forwarding address. You also want to say that your home was either condemned by the city or no longer livable because of the storm. The judge will ask for this information anyway so you can present a better case if you have this information ready ahead of time.

2. Be specific about facts, but keep it brief. You want your statement to fit in the space on the form you fill out, and it is a small space. This is your first chance to tell the reason why you are entitled to money in a court setting, but remember that you will also get to say more in front of a judge.

3. You can give copies of your apartment photos as evidence in court. You should make sure you have copies for the judge, the defendant (your landlord), and your own personal copy as a backup.

4. DO NOT SIGN this page unless in the presence of a notary. The court clerk can usually serve as a notary, witnessing your signature on the form when you file the case. If you are mailing this form in, you must get it notarized somewhere else (signed in the presence of a Notary Public).

5. Settlement agreement section: Often when the tenant and landlord appear in court, there may be other parties in front of the same judge at the same time. Because of limited time and resources, the judge may ask all parties to step out of the courtroom to discuss settling their dispute before the judge hears them. Depending on your case, this may or may not be a good idea; in most situations you should at least try to get an agreement from the landlord. If you come to an agreement, you can write the terms in the section on your claim form and the judge will review and make the agreement the official court order. Any agreement drafted by you and your landlord should be very clear about who must pay who and have a deadline for payment.

### **What do I do if my apartment is damaged, but still livable?**

It doesn't matter what your lease may or may not say, the landlord is responsible for making sure that your apartment is in livable condition. "The Covenants of Habitability" is a part of MN state law that covers all rental housing, and it has three main parts:

- The apartment must pass all safety and health codes.
- The apartment must be in reasonable repair.
- The apartment must be fit for the use intended.

But, it is also very important to know that you are responsible for paying for damage that you or someone "under your control" caused, (meaning a child, roommate or a visitor in your home, for example) that happened because of willful, malicious, or negligent behavior. See MN Statute 504B.161. In this case, it is probably clear that broken windows or a damaged roof is something caused by the storm and not you. Just be aware that you are responsible for damage you cause that is not related to the storm and is *not* part of ordinary wear and tear.

### **Getting non-emergency repairs made:**

You should tell your landlord right away about a repair that needs to be made. Calling or texting is fine, especially if that is how you have always contacted the landlord. But you should also follow up by sending your landlord a written repair request too. What should be in the written request?

- The Date
- A short (less than a page if you can) description of the problem. Be as clear, specific, and neutral as you can.

- How long the problem has been there
- What you think is a reasonable way to fix the problem
- Your name and signature
- Copy the letter for your records
- You can mail, hand deliver, or drop it in the office's box, if there is one

Writing the request to your landlord is important because it is evidence that you asked for it to be done, and that s/he knows about the problem. If your landlord does not make the repair within 14 days, you have the right to have the court hold your rent until the problem is fixed. This is called a Rent Escrow. For you to win your rent escrow case, you need to be able to show the judge that you asked for the repair and that the landlord knew about it, but did not fix it. The letter helps to provide this evidence.

### **Rent Escrows**

Before you decide to file a rent escrow, you might ask your self how serious the problem is. If it is a broken screen, for example, it probably isn't serious enough to file, and a judge would likely throw out your case.

You will have to file your case at the Hennepin County Courthouse—in housing court. The filing fee is about \$75, unless you have a low income. If your income is very low, you can bring proof of income with you to file an "IFP," which will allow you to waive the filing fee.

Your case will be scheduled within about two weeks. Make sure you bring your request letter that you sent your landlord, along with any other evidence you have to show a judge that the repair has not been made. This might include photos with the date on them or even other letters between you and the landlord about the problem. If you have bedbugs, for example, you could bring those in if you wanted to. It is your responsibility to prove your case to the judge, so you want to try to be as thorough as you can to show that:

1. there is a repair problem
2. the landlord knew about it
3. the landlord has not fixed it

### **What if my repair is an emergency?**

MN law names certain problems as emergencies. They are:

- loss of running water,
- hot water,
- heat (during cold weather),
- electricity,
- sanitary facilities,
- or other essential services or facilities that the landlord is responsible for providing.
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If you are facing problems with any one of these things (and it is not your fault that it is happening or you did not cause the problem), and your landlord is not responding to your request to address it, you can file what is called an ETRA or Emergency Tenant Remedies Action (MN Statute 504B.381). The first step is to tell your landlord that if s/he does not make the repair in the next 24 hours, that you plan to file an ETRA. Your notice does not have to be in writing. It can be over the phone, or even by leaving a voice mail message.

If your landlord does not work to fix the emergency in 24 hours, you can then file the ETRA. To do this, you will need to go to the Hennepin County Court house, and it will cost \$322, unless you have a low income. If your income is low, you can file an "IFP," which is a waiver for the fee—be sure to bring some proof of low-income with you. If you pay the fee and win your case, the judge may likely order the landlord to pay back the fee. Once you have your court date, you must bring with you and give to the judge:

- (1) a description of the property and the identity of the landlord;
- (2) a statement of the facts show there is an emergency caused by the loss of essential services or facilities;  
and
- (3) a request for relief (ask to have the problem fixed).

### **What if there is a repair problem that affects my whole building?**

Examples of problems that affect many tenants in a building could include structural (like a bad roof or siding) and common-area repairs in hallway, lobby, laundry room, etc. They may also include, plumbing problems, insect infestations, lack of heat, and many emergency repairs. You can gain an upper hand when you work with your neighbors in a building to address a problem with your landlord. A landlord is also less likely to retaliate against an entire building of tenants with the same issue. In addition to having more people targeting the landlord and gathering community support, there are legal advantages in court when tenants are organized.

If many tenants are affected by the same problem, they can file an ETRA together if the emergency affects more than one person. For example, if there has been no running water to your building, and your landlord has not been responding to you, you can file the ETRA with your neighbors.

If the problem is not one of the emergencies named under state law, you can still file a TRA, or Tenant Remedies Action with other tenants in your building. This works much like a rent escrow, but the tenants must be organized as a legitimate tenant association to do this. If you and your neighbors are not part of a formally organized association, you can actually have ask a neighborhood organization or the City of Minneapolis file the TRA on your behalf.

### **What should I do if my landlord wants me to move to another one of his/her apartments instead of returning my security deposit?**

If your apartment was destroyed by the tornado and the city condemned it, or if you were constructively evicted (your home is no longer livable), you still have the right to end your lease and get your deposit back (unless your existing lease has a clause in it allowing the landlord to substitute your unit for another one—but that is very uncommon).

On the other hand, if it makes more sense to you to take another apartment because it means that you won't go homeless, then certainly choose what is in your best interest. If you decide to go with another apartment, you should contact Legal Aid or Minneapolis Housing Services to help you know what your rights are in this circumstance, and they may help you to negotiate a new lease, or to renegotiate your existing lease.