

## **EVICTION — FORCING THE TENANT TO MOVE**

### **UNLIVABLE APARTMENTS**

Sometimes a home will have so many serious repair problems that you decide that you cannot live there any longer. This is called **constructive eviction**. Constructive eviction means that the landlord has allowed a repair problem or other condition to exist that is so serious that it is equal to evicting the tenant.

If you decide that you have to break your lease by using a constructive eviction argument, give the landlord **written** notice of the problem. In the letter, say that you will consider the lease broken and will move out unless repairs are made within a reasonable period of time. **Keep a copy of this letter.** If there is a housing inspector in your area, call the inspector and ask for an inspection to be done. Get a copy of the repair orders to document the condition of the home. It is also a good idea to ask the health department to do its own inspection and order its own repairs. If repairs are not made, you should move out within a reasonable time after the repairs should have been done.

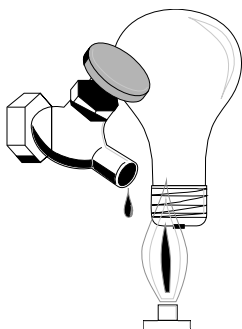
### **Warning!**

**A constructive eviction only exists if the landlord has not provided essential repairs or services.** Constructive eviction usually only applies to very serious conditions that make the rental unit **unlivable**, such as when there is no heat or water in the rental unit. If you do not want to move, see pages 19-27 for other steps you can take when there are serious repair problems.

If you claim constructive eviction and move out, your landlord may sue you for damages. The amount for which the landlord can sue depends on the type of tenancy you have. If you have a month-to-month lease, the landlord may sue you for one month's rent. If you have a fixed term lease, the landlord may sue you for the rest of the amount owed on the lease. If your landlord sues you for damages, you will have to prove that you were constructively evicted. You should bring the following to court as evidence

- 1) all the letters you sent your landlord about needed repairs
- 2) witnesses
- 3) pictures and
- 4) repair orders from the housing inspector and the health department.

In other words, you will have to prove that the conditions were so bad that you were forced to move out. If your landlord sues you for damages, you can claim a rent refund for the period you lived in the apartment with the repair problem (see page 26).



## UTILITY SHUT-OFFS

Call your landlord right away if your utilities are shut off. If the landlord has turned off your utilities, you can sue to have the utilities turned back on. You can also sue to recover a maximum of 3 times the value of the damage you suffered or \$500, **whichever is greater**, plus attorney's fees. If your landlord turns the utilities back on within a reasonable time, you can sue only for the money it actually cost you. **You cannot collect money if the shut-off was because of something you or your guests did to damage the utility service.** Protection against illegal shut-offs also covers residents after a mortgage foreclosure or contract-for-deed cancellation.

It is a criminal misdemeanor for a landlord to shut off the electricity, gas, or water services to get you to move out. The landlord must prove there was a good reason for turning off the utilities, such as making repairs. Sometimes, the utility company will shut off the utilities if the landlord did not pay a bill for which he was responsible.

You, and other tenants, can pay the gas, electric or water bill **and deduct the amount from your rent payment** if the utility company

- Shuts off the utilities
- Sends a final notice that the utilities will be shut off or
- Posts a notice of disconnection at the building.

You only have to pay the most recent bill. You do not have to pay any of the past due bills or late charges.

If you live in a building that has 1 to 4 units, you also have the option to take over the gas or electric account from your landlord and be a new customer. You can do this as long as you meet the requirements that any new customer would have to meet. If you become a new customer, you do not have to pay ANY of the old bills. This includes even the most recent one. The utility company CANNOT ask you to pay a deposit.

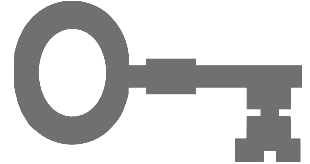
If you are in this situation, call a lawyer or your local legal services office for help.

In Minneapolis, there are special laws about utilities, such as

- Your landlord must give you written notice (either included in the lease or as a separate document) saying who is the person responsible for paying the utilities you use.
- If there are not separate meters in your building for the electricity, gas and water used by each rental unit, your landlord is responsible for paying those utility bills.

## LOCKOUTS

It is **illegal** for a landlord to lock you out of your apartment, place your personal belongings onto the street, or change the locks **for any reason**, even if you are behind on your rent. **A landlord can evict you only by bringing an eviction court case (also called an “unlawful detainer”) against you.** The only person who can remove you by force from the property is a law enforcement officer (police officer or sheriff). But the law enforcement officer can do this **only after** the landlord won the court case and the judge issued a Writ of Recovery.



If you have been locked out unlawfully and you want to get back into your house, follow these steps

1. Find someone to be a "witness." You might want to ask a friend or someone else who lives in the building to come with you when you try to get back into your place
2. Go to the landlord **with your witness** and ask the landlord to let you back into the home **and**
3. Tell the landlord **it is against the law to lock you out.**



If the landlord still refuses to let you back into your home, follow these steps

1. Call the police and ask them to help you get back into your home.
2. Tell the police officer you want to file a criminal complaint. Be sure to get the officer's badge number. This information may be helpful if you have to get a court order to let you back in the home.

If you still cannot get back into your home, call a lawyer, your local legal services office or the city attorney **immediately** so that you can take legal action against your landlord. **A lawyer can go to court and get an immediate order to let you back in your home.** You should bring proof to the court hearing that you live there like a neighbor, a lease, or something with your address on it, like a driver's license or bill.

After getting back into your home you may want to file a lawsuit against your landlord to pay for money you spent as a result of being locked out. You can sue your landlord for an amount up to 3 times your actual out-of-pocket costs (like money you paid to stay somewhere else) or \$500, **whichever is greater.** You can file the lawsuit in Conciliation Court if the amount you are suing for is \$7,500 or less. There is a filing fee to start the court case, but the court can waive (excuse) the fee if you cannot afford it. Ask the court clerk for the papers to waive the fee.

This protection against unlawful lockouts also applies to tenants when there has been a mortgage foreclosure or contract-for-deed cancellation.