Habitability And Essential Services

Find out what you can do if your landlord has failed to maintain your rental property in a livable condition or failed to provide certain essential services (electricity and water, for example).

Overview

Your landlord must maintain your rental property in a habitable condition. "Habitable condition" generally means that the rental property is livable so that an average person could reside there in reasonable comfort.

Your landlord must also provide certain "essential items or services," unless your lease says differently. "Essential items or services" generally means that your rental property has heat, air-conditioning, running water, hot water, electricity, gas, a functioning door lock, and other essential items or services.

If you are having a problem with habitability or an essential item or service, you can follow the five steps below to give your landlord written notice of the problem and an opportunity to fix it. If your landlord fails to fix the problem, Nevada law gives you certain "remedies" (ways to enforce your rights).

Step 1: Is your problem "essential" or "nonessential"?
Step 2: Mail your landlord a written notice
Step 3: Wait to see whether your landlord repairs
Step 4: Enforce your rights if landlord fails to repair
Step 5: Watch to see what your landlord does

Step 1: Is Your Problem "Essential" Or "Nonessential"

It is important to decide whether your problem is "essential" or "nonessential" because each has different timeframes and remedies.

You have an "essential" items or services problem if it involves such things as heat, air-conditioning, running water, hot water, electricity, gas, a functioning door lock, or another essential item or service, without which your rental property is not livable. (NRS 118A.380(1).)

You have a "nonessential" habitability problem if it involves something that is not an "essential item or service" but still affects whether the rental property is habitable. A rental property is not habitable if it violates housing or health codes concerning health, safety, sanitation, or fitness, or if the property substantially lacks:

- Effective waterproofing and weather protection of the roof and exterior walls, including windows and doors.
- Plumbing facilities that conformed to applicable law when installed and that are maintained in good working order.
- A water supply that can produce hot and cold running water, furnished with the appropriate fixtures and connected to an approved sewage disposal system and maintained in good working order.
- Adequate heating facilities.
- Electrical lighting, outlets, wiring, and electrical equipment.
- Adequate removal of garbage and an adequate number of appropriate receptacles for garbage in clean condition and good repair.
- Building, grounds, and all other areas under the landlord’s control that are clean, sanitary, and reasonably free from accumulation of debris, filth, rubbish, garbage, rodents, insects, and vermin.
- Floors, walls, ceilings, stairways, and railings.
maintained in good repair.

- Ventilating, air-conditioning, and other facilities and appliances, including elevators, maintained in good repair if supplied by the landlord. (NRS 188A.290(1).)

**FYI!** You may have agreed in your lease to perform certain repairs, maintenance tasks, and minor remodeling. That's acceptable so long as the agreement was made in good faith and doesn't diminish the landlord's obligation to other tenants. (NRS 118A.380(2).) So read your lease carefully. You can't, for example, complain that there's trash on the property if you validly agreed to remove all trash and keep the property neat and clean.

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**Step 2:**

**Mail Your Landlord A Written Notice**

If you have a problem with your rental property, you must give written notice of the problem to your landlord or manager. (NRS 118A.355(1), 118A.260.) Simply telling your landlord about the problem or submitting a work order is not enough. The written notice from you is your proof that you told your landlord about the problem and asked that it be repaired. If you do not give written notice, you might not be able to assert your rights under Nevada law.

Make sure you keep a copy of the written notice you send. Also make sure you mail the notice to your landlord by certified mail, return receipt requested, so you have proof of mailing.

The only time you may not have to give written notice is when the landlord has been cited for the problem by a code enforcement agency. (NRS 118A.355(4).)

- If you decided in Step 1 that you have an "essential" items or services problem, use the attached SAMPLE LETTER FOR ESSENTIAL SERVICES. You can also go to [www.CivilLawSelfHelpCenter.org](http://www.CivilLawSelfHelpCenter.org) for a fillable version of the letter you can type and a form guide that shows how to complete the letter.

**CAUTION!** If you want to withhold rent in the event your landlord fails to fix the essential items or services problem, you have to be current on your rent when you send your written notice. (NRS 118A.380(4).)

- If you decided in Step 1 that you have a "nonessential" habitability problem, you can use one of the attached “nonessential services” letters. You can also go to [www.CivilLawSelfHelpCenter.org](http://www.CivilLawSelfHelpCenter.org) for a fillable version you can type and a form guide that shows how to complete the letter. Which letter you choose depends on what you want to happen should your landlord fail to make the necessary repairs:
  - If you want to terminate your lease and move if your landlord fails to repair, use the SAMPLE LETTER FOR NONESSENTIAL SERVICES – TERMINATE LEASE AND MOVE
  - If you want to pay for the repairs yourself and deduct it from your rent, use the SAMPLE LETTER FOR NONESSENTIAL SERVICES – PAY FOR REPAIRS AND DEDUCT FROM RENT

**CAUTION!** You can only repair the problem yourself if it will not cost more than one month's rent. And you can only repair and deduct up to the amount of one month's rent every twelve months. (NRS 118A.360.) You must also provide your landlord with an itemized statement of the repair. Your lease may specify a person or company who must perform the work. Check your lease before you call anyone to make repairs.

- If you want to withhold rent if your landlord fails to repair, use the SAMPLE LETTER FOR NONESSENTIAL SERVICES – WITHHOLD RENT

**CAUTION!** If you withhold your rent, you must deposit all the rent due with the court. (NRS 118A.355(5).) Should you receive an eviction notice for nonpayment, you will need to file an answer/affidavit with the court and give all your rent to the court clerk. If you don't deposit your rent with the court, you don't have a defense to a nonpayment eviction! (NRS 118A.355(5).)
Step 3:  
Wait To See Whether Your Landlord Repairs

If you decided in Step 1 that you have an "essential" items or services problem, you must give your landlord forty-eight hours (not counting weekends and holidays) to fix the problem or to use his or her best efforts to fix the problem. (NRS 118A.380(1).)

If you decided in Step 1 that you have a "nonessential" habitability problem, you must give your landlord fourteen days (including weekends) to fix the problem or use his or her best efforts to fix the problem. (NRS 118A.355(1).)

Step 4:
Enforce Your Rights If Landlord Fails To Repair

If your landlord fails to fix the problem (or use his or her best efforts to fix the problem) within the time periods discussed in Step 3 above, you can enforce your rights under Nevada law by taking the following actions:

If you decided in Step 1 that you have an "essential" items or services problem, you can:

- Obtain your own essential services and deduct the actual cost from the rent;
- Obtain other housing (with rent stopping at the rental property that lacks essential services) until the problem is fixed;
- Sue the landlord for money if the problem is not fixed; or
- Withhold your rent until the landlord has attempted in good faith to restore the essential services, without incurring late fees or other charges. (For "essential" items or services problems, a tenant is not required to deposit the rent with the court as is required for "nonessential" habitability issues.) (NRS 118A.380(1).)

CAUTION! Remember that you don't have the right to withhold rent unless you were current on your rent when you gave your landlord written notice of the essential items or services problem. (NRS 118A.380(4).) Remember too that you can't take any of the actions listed above if the problem was caused deliberately or negligently by you, a member of your household, or someone on the premises with your consent. (NRS 118A.380(5).)

If you decided in Step 1 that you have a "nonessential" habitability problem, you can:

- Terminate your lease and move out (NRS 118A.355(1)(a));
- Sue your landlord for money, for a court order requiring the repairs, or for other relief (NRS 118A.355(1)(b)-(c));
- Pay for repairs yourself and deduct the cost from your rent (but only up to a maximum amount equal to one month's rent within a twelve-month period, and only after providing the landlord with an itemized statement) (NRS 118A.360); or
- Withhold rent (and pay it into the court's escrow account) (NRS 118A.355(1)(d)).

CAUTION! You can't take any of the actions listed above if the habitability problem was caused deliberately or negligently by you, a member of your household, or someone on the premises with your consent. You also can't take those actions if the landlord was unable to fix the problem because you refused to allow access to the rental property. (NRS 118A.380(5).)

Step 5: 
Watch To See What Your Landlord Does

In response to you taking one or more of the actions listed in Step 4 above, your landlord will probably either (1) fix the problem or (2) give you an eviction notice if the landlord disagrees with your right to withhold rent,
obtain services elsewhere, and the like.

If your landlord tries to evict you, your landlord will serve you with some type of eviction notice. You must file an answer/affidavit with the court in response to any eviction notice you receive so that you can assert your habitability or essential-items-or-services defense.

In other words, you need to tell the judge in your affidavit/answer that you are validly exercising your rights under Nevada law because your landlord failed to supply some essential item or service or failed to maintain your rental property in a habitable condition after you gave the required written notice.

**CAUTION!** If your landlord serves you with an eviction notice and you fail to respond by filing an affidavit/answer with the court, you could be evicted without a hearing.

To learn more about the eviction process and how to respond to an eviction notice from your landlord, visit the Self-Help Center website, [www.CivilLawSelf-HelpCenter.org](http://www.CivilLawSelf-HelpCenter.org), and click on “Evictions & Housing” and “Evictions.”

If you have complained about a habitability problem, a violation of Nevada’s landlord-tenant laws, or some other housing or health code violation, your landlord cannot raise your rent, decrease essential services, refuse to renew your lease, or evict you. (NRS 118A.510(1).) This is known as “retaliation,” and it is a defense you can raise in an eviction case when you file your answer/affidavit with the court. (NRS 118A.510(2).)

**FYI!** Keep in mind that your landlord's actions may not qualify as retaliation if you or someone in your household caused the habitability problem, if your tenancy was terminated for cause, if the repairs necessary to bring your unit in compliance with health or building codes can only be made if your unit is vacant, or if the increase in rent applies to all tenants. (NRS 188A.510(3).)

Four sample letters at are included with this packet:

1. SAMPLE LETTER FOR ESSENTIAL SERVICES
2. SAMPLE LETTER FOR NONESSENTIAL SERVICES – TERMINATE LEASE AND MOVE
3. SAMPLE LETTER FOR NONESSENTIAL SERVICES – PAY FOR REPAIRS AND DEDUCT FROM RENT
4. SAMPLE LETTER FOR NONESSENTIAL SERVICES – WITHHOLD RENT

For fillable versions of the letters that you can type, visit the Civil Law Self-Help Center website, [www.CivilLawSelf-HelpCenter.org](http://www.CivilLawSelf-HelpCenter.org), and click on “Evictions & Housing” and “Habitability & Essential Services.” You’ll also find form guides to show you how to complete the letters.

To read the Nevada Revised Statutes (NRS) that relate to habitability and essential services that are referenced above, go to the Civil Law Self-Help Center website, [www.CivilLawSelfHelpCenter.org](http://www.CivilLawSelfHelpCenter.org), and click on “Rules & Laws” and “Nevada Statutes.” There, you’ll find links to the NRS.
Dear Landlord:

Please be advised that I have a problem with my dwelling unit, located at [address of rental unit]. The problem exists at my dwelling unit: [description of problem]. The problem has persisted since [date problems began].

The problem involves an essential item or service that you are required to provide pursuant to my lease agreement or Nevada law, specifically NRS 118A.380. NRS 118A.380 requires you to fix this problem within 48 hours (sooner if conditions require) from the date of this letter. If you fail to remedy this problem in 48 hours, I will:

1. Obtain other essential items or services and deduct the reasonable and actual cost from the rent until you remedy the problem; or
2. Obtain other comparable housing with rent ceasing at my original dwelling unit until you remedy the problem and seek to recover from you any additional cost of the comparable housing;
3. Withhold rent as it becomes due until you remedy the problem; or
4. File a lawsuit against you for actual damages sustained as a result of your violation of Nevada law.

Thank you for your anticipated cooperation in this matter. Please contact me to set up a convenient time for you to repair the problem. Be advised that Nevada law prevents retaliation and, further, prevents eviction and late fees that result from my withholding the rent.

Sincerely,

[sign name]
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Re: Notice of Habitability Problems Pursuant to NRS 118A.355

Dear Landlord:

Please be advised that I have one or more problems with my dwelling unit located at (address of rental unit) ____________ ____________ ____________ ____________.

As you may know, the following problems exist at my dwelling unit (list each problem in detail, attach additional pages if necessary):

____________________________________________________________________________________________
____________________________________________________________________________________________
____________________________________________________________________________________________

The problems have persisted since (date problems began) _____________________________

The problems involve an item or service that you are required to provide pursuant to my lease agreement or Nevada law, including NRS 118A.290.

NRS 118A.355 requires you to fix these problems within 14 days from the date of this letter.

If you fail to remedy these problems within 14 days, I will terminate my rental agreement, move out, and seek my remedies under Nevada law, including, but not limited to, filing a lawsuit against you for actual damages as a result of your violation of Nevada law.

Thank you for your anticipated cooperation in this matter. Please contact me to set up a convenient time for you to repair the problems. Be advised that Nevada law prevents retaliation against me for exercising my rights.

Sincerely,

(Signature) __________________________________________
(Print Name) _________________________________________
VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

(Your Name) __________________________________________
(Your Address) __________________________________________
(Your City, State, Zip) __________________________________________
(Your Phone No.) __________________________________________
(Date) __________________________________________

Re: Notice of Habitability Problems Pursuant to NRS 118A.360

Dear Landlord:

Please be advised that I have one or more problems with my dwelling unit located at (address of rental unit) ________
____________________________________________________________________________________________.

As you may know, the following problems exist at my dwelling unit (list each problem in detail, attach additional pages if necessary):
____________________________________________________________________________________________
____________________________________________________________________________________________
____________________________________________________________________________________________.

The problems have persisted since (date problems began) ________________________________________.

The problems involve an item or service that you are required to provide pursuant to my lease agreement or Nevada law, including NRS 118A.290.

NRS 118A.360 requires you to fix these problems within 14 days from the date of this letter.

If you fail to remedy these problems within 14 days, I will correct the condition at your expense. I will supply an itemized statement of the costs to you and deduct this cost from my next month’s rent.

Thank you for your anticipated cooperation in this matter. Please contact me to set up a convenient time for you to repair the problems. Be advised that Nevada law prevents retaliation against me for exercising my rights.

Sincerely,

(Signature) __________________________________________
(Print Name) _________________________________________
Re: Notice of Habitability Problems Pursuant to NRS 118A.355

Dear Landlord:

Please be advised that I have one or more problems with my dwelling unit located at (address of rental unit) ____________ __________________________.

As you may know, the following problems exist at my dwelling unit (list each problem in detail, attach additional pages if necessary):

_____________________________________________________________________________________________

_____________________________________________________________________________________________

_____________________________________________________________________________________________

The problems have persisted since (date problems began) ____________________________________________________________________________.

The problems involve an item or service that you are required to provide pursuant to my lease agreement or Nevada law, including NRS 118A.290.

NRS 118A.355 requires you to fix these problems within 14 days from the date of this letter.

If you fail to remedy these problems within 14 days, I will withhold the rent and deposit the rent in an escrow account provided by the court.

Thank you for your anticipated cooperation in this matter. Please contact me to set up a convenient time for you to repair the problems. Be advised that Nevada law prevents retaliation against me for exercising my rights.

Sincerely,

(Signature) __________________________________________

(Print Name) _________________________________________