



New York State
Division of Housing and Community Renewal
Office of Rent Administration

Policy Statement 89-1 (February 27, 1989)

***Failure to Maintain Services;
Rent Reduction/Restoration***

This policy statement is being issued to clarify DHCR's policies with respect to maintenance of services for rent stabilized buildings or accommodations in New York City.

Rent Reduction

Section 26-514 of the Rent Stabilization Law, as amended by Chapter 403, Laws of 1983 (Omnibus Housing Act) provides, in pertinent part, as follows:

In addition to any other remedy afforded by law, any tenant may apply to the state division of housing and community renewal, for a reduction in the rent to the level in effect prior to its most recent adjustment and for an order requiring services to be maintained as provided in this section, and the Commissioner shall so reduce the rent if it is found that the owner has failed to maintain such services...

A substantially similar provision is contained in Section 2523.4 of the Rent Stabilization Code and it applies to all rent stabilized units including stabilized hotels.

Essentially, a "required service" is one that was furnished on the base date or one required to be furnished by any state law or local law, ordinance or regulation applicable to the premises. These required services may include but are not limited to, repairs, decorating and maintenance, the furnishing of light, heat, hot and cold water, elevator services, janitorial services, and the removal of refuse. In addition to these required services, hotel stabilized tenants are entitled to receive maid service, linen service, furniture and furnishings, and staffed lobby, as part of their required services.

Where a tenant files a complaint alleging the owner's failure to maintain services and where the owner disputes the allegation, an inspection of the premises is conducted to determine whether the owner has failed to maintain services.

Where an inspector finds that required services have not been maintained or are absent, DHCR will issue an order listing the specific services the owner failed to maintain, reducing the rent and directing the owner to restore the services. The rent will be reduced retroactive to the first of the month following the date of service on the owner of the tenant's complaint. In addition, the owner will be ineligible for any rent increases for the affected unit or units until the date specified in a rent restoration order. The order will also include those items listed in the original complaint which were not found to exist by the inspector.

*This document is being reissued for informational purposes only.
The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.*



However, if prior to an inspection the owner has restored the service(s) alleged in the tenant's complaint, there is generally no rent reduction ordered. Additionally, the rent will not be reduced upon a tenant complaint, or should be restored upon an owner's application, where there is a finding that a tenant failed to provide reasonable access.

Whenever a DHCR inspector finds a diminution of service, the rent shall be reduced in accordance with the Code and law mentioned above. However, there are limited instances where an item listed in a tenant's complaint is found to exist, but is only a deficiency that does not equal a reduction in services. Thus, a rent reduction would not be ordered if the alleged failure to maintain services involves a minor condition that either occurs normally despite on-going maintenance or recurs from time to time and is normally addressed as part of periodic maintenance. Examples of such conditions are as follows:

- a) A burned-out or missing light bulb in a public hallway, where there are other light bulbs and the illumination has not dropped to a hazardous level;
- b) A small crack in the wall occurring after a paint job;
- c) A small paint chip in an enamel appliance.

Such situations, standing alone, would not normally warrant a finding of a failure to maintain services. However, an Order may be issued giving the owner thirty (30) days to remedy the condition. Such condition while initially not a failure to maintain services may later escalate into a failure to maintain services. That is, it becomes hazardous or the owner has failed to make the necessary repairs within a reasonable period of time after the DHCR Order. If the repair is not made within thirty (30) days, the tenant may request a follow-up inspection. If the original condition is not corrected, an appropriate remedy including a rent reduction will be ordered, either on a subsequent complaint, or as part of a compliance proceeding following the issuance of the Rent Administrator's order. In such a situation the retroactive date for the reduction in rent, if ordered, would be the first of the month following the date of service on the owner of the tenant's original complaint.

Rent Restoration

Sections 2523.3 & 4 of the Rent Stabilization Code essentially provide that where DHCR determines that an owner has failed to maintain services, such owner shall not be entitled to a rent restoration until he or she has made an application and DHCR issues an Order restoring the rent.

As rents are reduced when there is a failure to maintain required services, likewise, DHCR will issue Orders to restore those rents after required services as specified in the Rent Reduction Order have been restored. The rent restoration proceeding is initiated when an owner files an application affirming that the required services have been restored. If the tenant consents to the owner's statement, then the rent is restored. Otherwise, an inspection is made to determine if the required services have been restored.

If the Order enumerated a number of conditions that required correction, such as faulty wiring, a leak, plaster and paint, all enumerated conditions must be corrected before the rent is restored. When the condition has not been corrected in a workmanlike manner, such as breaking a wall to repair a pipe without fully restoring the wall, including plastering and painting, the rent shall not be restored until all such work has been completed. Rents may be restored if the only remaining condition would not, on its own, constitute a diminution of services as defined in the "Rent Reduction" section of this memo above.

Where DHCR issues an Order restoring rent, the retroactive date would be the first of the month following the date of service on the tenant of the owner's application to restore rent.

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for Rent Administration