

Rent Abatement

After the hearing, the examiner has up to 20 days to make a decision. He/she will decide whether the tenant may abate rent, and if so, how much may be abated for each violation. The percentage of rent abatement awarded to the tenant will be determined according to the guidelines in the Ordinance. UNDER THE CITY ORDINANCE, TENANTS MAY NOT ABATE RENT UNTIL IT HAS BEEN ORDERED BY A HEARING EXAMINER. Abatement ordered by a Hearing Examiner is retroactive to the date of the original building inspection. If the landlord owes the tenant money because of the retroactive award, but does not promptly reimburse the tenant, this amount may also be deducted from future rent payments. If the future rent payments are less than the amount owed, the ordinance provides additional protection for the tenant to recoup double the amount owed, plus attorney fees if not promptly paid. [Section 32.05(5)(c) Madison General Ordinances.]

Within 10 days after service by mail of the decision of the Hearing Examiner, either party may file a written petition for reconsideration with the Rent Abatement Clerk stating the grounds for the petition. Reconsideration will be granted only on the basis of a material error of fact or law, or an error in calculation of an award. Reconsideration petitions do not stop rent abatement.

The tenant may deduct the amount of rent ordered by the Hearing Examiner until a Building Inspector certifies that the abatable code violations have been corrected. When an Inspector certifies that a violation has been corrected, rent abatement ends for that specific item only. Abatement authorization for items remaining uncorrected continues until the Inspector certifies that correction has been made.

Tenants should check with the Rent Abatement Clerk before paying rent each month to determine what items remain uncorrected.

Building Inspection Division

The Building Inspection Division is an agency of the City of Madison charged with enforcement of the Building and Housing Codes. It is not an advocate for either the tenant or the landlord on abatement issues. The goal of the Building Inspection Division is to ensure that all rental property meets the Building and Housing Codes. The Rent Abatement Clerk arranges hearings and keeps all abatement records. They can answer questions from all parties about procedures and the status of abatable orders. You can reach the Rent Abatement Clerk at 608-266-4551.

Additional information is obtainable from:

Tenant Resources Center 257-0006
Hours: 9 am – 6 pm, Monday-Friday
Web: <http://trc.studentorg.wisc.edu>

Apt. Assoc. of South Central WI (AASCW) 826-6226
Hours: 9 am – 5 pm, Monday-Friday
Web: <http://www.aascw.org>

Legal Action of Wisconsin..... 256-325
.....1-800-362-3904
Hours: 9 am – 12 pm, Monday-Tuesday
Web: <http://legalaction.org>

If you need an interpreter, materials in alternate formats or other accommodations to access this service, please contact the Rent Abatement Clerk at 608-266-4551, TTY/TEXTNEXT: 1-866-704-2318.



City of Madison

RENT ABATEMENT ORDINANCE

(32.04, Madison General Ordinances)

- Establishes a procedure under which tenants may be able to reduce their rent because a landlord failed to correct certain housing code violations.
- Creates a list that describes which building code violations are eligible for a rent reduction and establishes a range of percentages for each violation.
- Can be used by tenants when the Building Inspection Division issues an Official Notice to correct code violations and the landlord does not make the corrections by the due date listed on the Official Notice.
- Provides for an informal hearing during which a Hearing Examiner hears testimony from both the landlord and tenant, and determines the amount of abatements, if any.
- Does not affect a tenant's right to sue for damages in court under state law.
- This is in addition to any rights to self-help repairs (See Self-Help Repairs brochure for details).

Tenant

You are encouraged to call your landlord to make repairs. You may call the Madison Building Inspection Division (608-266-4551) to request an inspection if repairs are needed and your landlord has not made them.

When a Housing Inspector inspects the premises for violations of Housing and Building Codes, they will send the landlord an "Official Notice," which cites any violations and gives compliance dates for fixing them. The Official Notice indicates violations, which may be eligible for Rent Abatement; not all violations qualify. The City of Madison Rent Abatement procedure can only be used if the landlord fails to correct abatement – eligible violations by the compliance date specified in the Official Notice.

If the landlord fails to correct abatement – eligible violations by the compliance date, the Neighborhood Preservation and Inspection Division will notify the tenant of abatement eligibility by mail. Notice of eligibility will also be published in the Capital Times each Tuesday for three (3) consecutive weeks. The publication will list addresses, apartment numbers, and eligibility. If you are eligible, you must apply for an abatement hearing within 30 days after the first notice of eligibility is published. You may file an application form from 8:00 a.m. – 3:30 p.m. in the Building Inspection Division at 126 S Hamilton St. There is a \$10 application fee, which will be reimbursed by the landlord if abatement is granted. Low-income tenants may apply to have the application fee waived. The applicant will receive a copy of the Official Notice at this time.

Landlord

You may avoid City of Madison Chapter 32 Rent Abatement claims by complying with all items listed in an Official Notice by the compliance date listed in the notice. Call your inspector and arrange a reinspection before the due date so that all items can be inspected and approved by the required date.

Remember that an extension of time to complete orders will stop prosecution, but it will not stop rent abatement claims.

Give special attention to those items on your Official Notice, which were marked with an asterisk (*). Those items, if not completed by the compliance date, may be eligible for rent abatement. Rent abatement claims do not affect the fact that all items must be corrected by the due date to avoid prosecution.

Watch the Tuesday Capital Times and work closely with your inspector so that you will know when your property(s) become eligible for Rent Abatement claims.

If your tenant applies for rent abatement, you will be notified by mail a minimum of 10 days before the hearing. You will receive a copy of the application, which contains the notice of the hearing time and place, and a copy of the Official Notice. It is important that you or your agent appear at the hearing. Failure to do so may result in a decision based solely on the tenant's testimony.

Abatement Hearings

Rent Abatement hearings are conducted by a Hearing Examiner. At the hearing, the tenant and landlord may present their sides. Both may be represented by counsel (though this is not necessary), and both may present evidence and call witnesses as to the nature, seriousness and duration of the violation and the extent to which the tenant was inconvenienced. Subpoena forms are available to either party and may be obtained from the Rent Abatement Clerk. Pictures, letters and copies of Building Inspector's worksheet can be helpful evidence for each side.

To win the right to abate, the tenant must prove that the landlord failed to correct rent impairing violations by the due date in an Official Notice.

To defeat the tenant's right to abate, the landlord must prove that the rent-impairing violations were negligently or willfully caused by the tenant or the tenant's guests or that the tenant's unreasonable refusal to allow entry prevented the landlord from making the repairs in a timely manner.

From the evidence presented by the parties, the Hearing Examiner will determine the amount, if any, of abatement to be allowed. For less serious violations, only 1 to 5 percent of rent may be abated. For more serious violations, 50 to 95 percent of rent may be abated. The rent-impairing list in the ordinance contains ranges of abatement for each abatable violation.

