

RENT ESCROW: A HOW-TO GUIDE



**Prepared by:
The Legal Aid Society of Columbus
Housing Conditions Project**

**1108 City Park Avenue
Columbus, OH 43206
For Franklin and Madison Counties:
INTAKE NO.: 614-241-2001
INTAKE TOLL FREE: 1-888-246-4420
For Marion, Morrow, Delaware and Union Counties:
TOLL FREE: 1-888-301-2411**



This booklet on the rent escrow process was prepared by the team members of the Housing Conditions Project. It was authored by Eve Searls, attorney at law.

The Team hopes this legal guide is of help to you. Please call us if you have any questions or need legal representation for any area covered in this booklet.

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What Do I Do if My Landlord Won't Fix Something?

An old heater that doesn't heat, a leaky roof, a broken toilet- that's all it takes to turn your lovely rental home into an unlivable dump. You may think that you're stuck with it, or you may know the landlord is supposed to make repairs, but you don't know how to ask for repairs and make sure the job gets done. Maybe you call up your landlord and say something is wrong, but the problem just doesn't get fixed. In any case, if you have a rental home without heat in the winter, or no hot or cold water, or unsanitary conditions such as mice, cockroaches, or faulty water or septic systems, you are not helpless under the law. If your landlord is ignoring your demands for repairs, you can exercise your right to deposit your rent with the court rather than pay it to your landlord. This process of rent depositing is also commonly known as "**rent escrow**".

This booklet will provide you with a quick guide to demanding repairs by taking advantage of the rent escrow process. Although defending your own legal rights may seem like a scary prospect, it is achievable if you take some time to familiarize yourself with the procedure. As a rent-paying tenant, you should never have to put up with unsafe, unsanitary, or unhealthy living conditions in your rental home.

What is “Rent Escrow”?

“**Rent escrow**” is simply defined as paying your rent to the clerk of court in your county, where they will hold the money until your landlord fixes the problem with your rental home. This puts your landlord in the position of having no rental income from you until he or she makes the repairs you are demanding. However, even if there are serious problems with your home, you cannot put your rent into escrow unless you meet certain conditions.

How Can I Be Eligible For Rent Escrow?

There are three important conditions you must meet before you can put your rent into escrow:

1. **Condition:** Do you reasonably believe that your landlord is **not complying with your lease** based on the condition of your rental, or has a code inspector found **violations** that could materially affect your health and safety?
2. **Notice:** Have you given your landlord **written notice** of the problem, and waited a **reasonable time** (thirty days, or less under emergency circumstances) for he or she to make repairs?
3. **Rent:** Are you **current** with your rent payments?

Let’s look at these three requirements in detail...

1. **Condition:**

Possible conditions problems include:

- no heat in winter
- no hot water
- broken pipes
- insect or rodent infestation
- lack of electricity, faulty electrical system
- broken windows, doors, locks
- broken appliances or bathroom/kitchen facilities.
- anything else that makes your rental home unsafe or uninhabitable.

Also, if you are guaranteed use of certain appliances or facilities in your lease, and you can't use them because they are broken, then you can demand repairs from your landlord. Put simply, you have the right to a livable rental home, and your landlord has the duty to maintain a livable space for you. Rent escrow is a way for you to pressure your landlord to make repairs the legal way.

2. **Notice:**

You must give your landlord written notice that details what conditions problems exist in your home. It is very helpful to have a city code inspection report to prove the conditions. There is no charge to you for this inspection. It is recommended that you send this notice by certified mail so that you have a receipt from mailing it, and to make sure it arrives. You may also hand deliver it to your landlord and have him or her sign a copy, or you bring along a witness who will agree to testify that he or she saw your deliver the notice. Here is a sample of a notice to correct conditions problems you can use:

Date

Landlord's Name

Landlord's Address

City, State, Zip Code

Re: Notice to Correct Conditions Problems

Dear _____:

I am writing this letter to put you on notice about conditions problems in my rental unit. These problems are:

Please correct these problems within thirty (30) days of your receipt of this letter.

Sincerely,

Tenant

Tenant's Address

cc: file

Notice: Continued

After you send or hand-deliver written notice of your conditions problems to your landlord, your landlord has a *reasonable time* to make repairs. This reasonable time is normally 30 days, but can be less if there is an emergency, such as no heat in the winter. Make sure you wait the reasonable amount of time after you deliver notice before you proceed with putting your rent in escrow.

Hopefully your official written notice of the problem will be enough to encourage your landlord to make the repairs. If not, you are taking the steps necessary to successfully put your rent in escrow.

3. Rent:

In order to put your rent in escrow, you must be **current** in your rent payments. “Current” means that you can’t be behind in rent, or any late fees, etc. that you are required to pay under your lease agreement. Therefore, if you have a problem with your rental home that your landlord won’t fix, **don’t stop paying your rent.** This is a common mistake that tenants make, which causes problems when they try to put their rent into escrow later. If you are behind in your rent, it means that you, the tenant, have violated the lease agreement, and your landlord may have the right to evict you.

NOTE: If your landlord manages three or fewer rental units (apartments or houses), then you are **not eligible** for rent escrow. The only exception is if your landlord failed to tell you in writing or in the lease that he or she had three or fewer rental units.*****

How Do I Put My Rent Into Escrow?

If you've met all three requirements for eligibility, the next step is actually going to the court and putting your rent into escrow. First you need to find out where your local courthouse is. The person you talk to when you get there is the Clerk of Court. In Franklin County, the place to go is:

Franklin County Municipal Court
Clerk of Courts
Rent Escrow Desk
Franklin County Courthouse
373 South High Street, 3rd Floor
Columbus, OH 43215
(614) 645-7420
Hours: M-F, 8:30 am-4:30 pm

In order to put your rent into escrow, you need to fill out an application form with your address and the address of your landlord. It may be helpful to bring a copy of your lease with you to the Clerk of Courts to help you fill out the application. You will need to have cash or a money order to pay your rent. Make sure to get a receipt!

Once you begin paying your rent into escrow, you must pay your rent to the Clerk of Courts as you would pay it to your landlord. This means, for example, if your rent is normally due on the 1st of the month and late on the 3rd of the month, you need to go to the Clerk of Courts and pay your rent by the 3rd of the month. You cannot become late in your payments to escrow, because it has the same consequences as being behind in your rent when you are paying it to your landlord, including possible eviction. In addition, if you are about to start paying your rent into escrow, you need to pay it at the Clerk of Courts either on or before the due date for that month.

After you put your rent into escrow, the Clerk of Courts will probably schedule you and your landlord for court-sponsored mediation so that you can have a chance to settle your differences without actually going to court.

What Can My Landlord Do if I Put My Rent in Escrow?

Rent escrow is intended to encourage your landlord to make necessary repairs through the *legal* withholding of your rent. When you put your rent into escrow, the Clerk of Courts will send your landlord notice that you are depositing your rent with the court. Once your landlord finds out you are depositing your rent with the court, he or she will, of course, want their

money. There are several different ways a landlord can ask for their money to be released from escrow:

1. They can apply to the **Clerk of Courts** for release of the rent, but they must have a written notice from you, the tenant, that the conditions problems have been fixed.
2. They can apply with the **Court** to release the rent. If they do this, they need to prove that:
 - a. You failed to give the landlord reasonable notice of the problems with your rental home, **or**
 - b. You were not current in your rent, **or**
 - c. The landlord wasn't in violation of the housing or health code, or the lease, at the time you initiated escrow, or that the problems you mentioned in your notice to the landlord have been fixed.

You will receive a notice in the mail if your landlord files an application with the court to release your rent. An application to release rent is considered a “legal complaint” under Ohio law, which gives you the right to be heard in court and make your case that any of the above claims that the landlord might make (see a through c above) are not true. You also can make your own complaint against your landlord, called a “**counterclaim**”. For possible counterclaims against your landlord, see the section entitled “**Possible Counterclaims**” at the end of this booklet.

If your landlord does not make repairs and does not file for a release of rent, you can file a request to have the rent

released to you to make repairs, to move, or to compensate you for not getting the full value you contracted for in the lease. A sample of how to request a release of escrowed rent to you is provided below.

THE FRANKLIN COUNTY MUNICIPAL COURT
Application to Clerk of Courts for Release of Rent Deposit

Case Number _____

Tenant's Request for Release of Money in Escrow

The condition contained in the notice given pursuant to division (A) of section 5321.07 of the Ohio Revised Code has NOT been remedied. I _____, Tenant, hereby request the clerk of the Franklin County Municipal Court to release all of the rent deposited with the court less 1% court costs, to _____, Tenant, to make repairs, to move, and/or to compensate for property damages.

DATE

Tenant's Signature

Tenant's Address

Sworn and subscribed before me on this _____ day of _____, 2006.

Notary Public

Once you have filed the application with the clerk, your case will be set for a hearing. Advice on how to prepare for a hearing and what to bring is on page 15 of this booklet.

What Are My Rights as a Tenant?

In order to protect tenants from unscrupulous landlords and unlivable housing conditions, tenants are guaranteed certain rights under Ohio law.

These rights include:

- The right to a home that complies with all applicable building, housing, health, and safety codes.
- The right to an apartment/house in a safe and habitable condition.
- The right to escrow rent as long as you comply with the requirements.
- The right to tell your side in court if your landlord asks the court to release the rent to him/her.
- The right to basic necessities in your home such as running water, reasonable heat, and waste receptacles.
- The right to receive 24 hours notice before your landlord enters your home, unless it is an emergency.
- **The right to repairs** if your unit does not comply with these standards.

[Source: O.R.C. §5321.04]

If requesting repairs, giving notice of needed repairs, and other non-legal means don't work, the rent escrow process can be a useful tool to persuade your landlord to make the needed repairs.

NOTE: If you live in government assisted housing (Section 8 housing, public housing), you still can take advantage of the escrow process. However, you also have additional tools at your disposal, including home inspections if you live in

Section 8 housing, and hearings if you live in public housing. **If you have a housing conditions problem and you live in assisted housing, call your local PHA (Public Housing Administrator) and/or your local legal aid office for more information about your rights.**

NOTE: If you are in college and you live in school-owned housing, you have special rights as a tenant, including a hearing before you can be evicted from your student housing. **If you are a student living in college or university-owned housing, call your school to find out more about their policy on student tenants.**

What Are My Landlord's Duties?

In order to protect tenants' health and safety, Ohio law also requires landlords to fulfill certain duties or face legal action. These include:

- The duty to maintain the rental property so that it complies with local building, housing, health, and safety codes.
- The duty to repair the property to keep it in a habitable condition, including common areas of the property.
- The duty to keep all appliances, utilities, and fixtures that are part of the property in good working order.
- The duty to give at least 24 hours notice before entering a tenant's home, unless it is an emergency.
- A landlord cannot abuse his or her right to access the home by entering without proper notice, or at inappropriate hours, or when it is not necessary to make repairs or maintain the property.

[Source: O.R.C. §5321.04]

These duties both help to provide you as a tenant with a safe and comfortable home, as well as protect a landlord from tenants who escrow their rent. If a landlord complies with all of his or her duties, then a tenant cannot claim that they have a right to escrow their rent. In the next section, we will explore how tenants can stand up for themselves if their landlord is not fulfilling all of his or her duties.

How Can I Defend My Rights as a Tenant?

There are several things you can do to defend your right to safe and habitable housing. Going to court and putting your rent into escrow are the last steps in the process of getting the repairs that you need, and should only be resorted to if all else fails. Simply asking for repairs is the first step, either by phone, in an informal letter, or by sending an official notice such as the example on page 5.

If asking for repairs is not enough, and you think your landlord is purposely failing to perform the repairs you are asking for, then you can start considering rent escrow. If you have not sent one already, an official notice of repairs needed should be sent to your landlord at least 30 days before you start the escrow process, unless it is an emergency, like no heat in the winter. If you think the phone calls and the written notice of needed repairs aren't going to do the trick, you can start preparing for rent escrow by requesting a housing code

inspection for your home. You can request a code inspection by calling the code enforcement officer at your local Neighborhood Pride Center. These centers were created by the city government to help Columbus neighborhoods improve themselves by taking advantage of city services. See the list on the next page for the Neighborhood Pride Center nearest you.

It is important to know that your landlord is prohibited by law to retaliate against you for requesting a code inspection, putting your rent in escrow, requesting repairs, or otherwise exercising your rights as a tenant. If your landlord is retaliating against you by trying to evict you, raising your rent, or otherwise trying to bully you into not pursuing an escrow case against him or her, then you should contact **The Legal Aid Society of Columbus** toll free at 1-888-246-4420 and we can discuss your legal remedies with you.

Columbus-Area Neighborhood Pride Centers

- If you don't live in an area with a local Neighborhood Pride Center, you can call City Code Enforcement at (614) 645-8139.
- Or use the Code Enforcement online Inspection Request Form at: http://td.ci.columbus.oh.us/Neighborhood%20Services/Code%20Enforcement/code_svc_form.htm

Franklinton Pride Center
Center Manager - David Hooie
1186 West Broad Street
Northwest corner of Yale and Broad
Columbus, Ohio 43222
Phone: 645-0176
Fax: 645-2495

South Side Pride Center
Center Manager - Jo Anne St. Clair
310 E. Innis Avenue
South Side Settlement House
between South High Street and
Parsons Avenue
Columbus, Ohio 43207
Phone: 645-8097
Fax: 645-5221

Neighborhood Pride Community
Center East
Center Manager– Lynn LaCour
3585 East Livingston Avenue
Corner of Livingston and Courtright
Columbus, OH 43227
Phone: 724-0100
Fax: 724-0111

Near East Pride Center
Center Manager– Michelle Williams
1393 E. Broad Street
On Broad Street
between Latta Avenue and Linwood
Avenue
Columbus, OH 43205
Phone: 724-0115
Fax: 724-0124

How Can I Prepare to Go to Mediation?

It is important to go to mediation prepared to tell your side of the story. You should be able to show what repairs are needed, that you followed the rent escrow process, and that the landlord has still failed to make the repairs. At mediation, you can ask for whatever settlement you think is appropriate, and you should bring evidence to support your claims of what you are entitled to.

Mediation involves you and your landlord both telling your stories to a trained mediator, who then goes back and forth asking both parties whether they can settle on some kind of solution to the problem. Possible solutions should include a plan to take care of repairs and a decision as to who gets the

money you've put in escrow. Mediation settlements are signed by both parties and are legally binding. Remember, you ***do not*** have to agree to a settlement that you are not happy with. You can always refuse a settlement and then proceed with the next step in the process, a court hearing. Going to court is more complicated and time-consuming, but it may be necessary if you can not negotiate with your landlord.

Please note that neither party is required to attend mediation. You will not lose your case if you are unable to attend, and neither will your landlord. Mediation is a useful tool in negotiating a settlement and avoiding court.

How Can I Prepare to Go to a Court Hearing?

If you are scheduled to go to a court hearing, you can also ask the court for additional remedies, such as:

- a court order directing the landlord to make repairs
- lowering your monthly rent until repairs are made
- releasing the escrowed rent to you so that you can make the repairs, or
- asking the court to terminate your lease.

Although your word is usually enough, it is very helpful to back up your story with some sort of credible evidence. This evidence could include photographs of the problems in your home, eyewitnesses to the problems, and official code inspection reports from the city.

In addition, you should keep records from each step of the rent escrow process, including:

- A copy of your notice to the landlord and a mailing receipt (if you sent the notice by certified mail);
- Copies of any correspondence between you and your landlord;
- A journal of any phone or in-person conversations between you and your landlord concerning your rental home;
- Receipts from the Clerk of Court for escrowed rent;
- Proof that you were current in your rent when you started rent escrow, such as cancelled checks, if you think your landlord will claim that you were behind.

Being prepared and calm when you arrive at your hearing or mediation will give you the best chance of having your side of the story heard. Keeping good records also makes you appear to be a more trustworthy tenant, so your claims are more convincing. If you have received a notice that your landlord has applied to the court for the release of the escrowed rent, then you should also be prepared to prove any counterclaims you are going to make against your landlord.

Possible Counterclaims

If your landlord files an application to release the rent from escrow, you should first make sure you can prove that you are right in escrowing your rent, and that you followed the correct steps to escrow rent. In addition to proving that you are entitled to escrow your rent, you can also make a counterclaim against your landlord. Possible counterclaims include:

- ★ Your landlord's failure to repair your home resulted in damages to you or your possessions.
- ★ Your landlord breached the rental contract (your lease) by failing to repair.

- ★ Your landlord breached his or her duties under Ohio law by failing to maintain your home [See section, “What are my landlord’s duties?” above.]
- ★ If your landlord retaliated against you for complaining to the authorities about your rental conditions or because you put your rent in escrow, this is also a valid and important counterclaim. Retaliation by landlords when tenants are just exercising their legal rights is illegal under Ohio law.
- ★ You may have a counterclaim if your landlord wrongfully terminated your utilities, such as shut off your electricity or locked you out of your home.
- ★ You may have a claim if your landlord wrongfully seized some of your personal property.

You can make these counterclaims in addition to defending your reasons for putting your rent into escrow. So not only do you need to prove that: you gave your landlord proper notice of the problems, that they were not fixed, and that you were current in your rent before you started putting your rent into escrow, but you also can make any counterclaims that apply to your situation. When you make a counterclaim you can ask for monetary compensation for your damages, including asking for the escrowed rent to be released to you instead of your landlord.

It is important to know that the Franklin County Municipal Court has a dollar limit on the cases it will hear. If you ask for a total of more than \$15,000 in damages, your case will be transferred to the Franklin County Court of Common Pleas. Also, do not make any claims for damages that you

cannot prove. For example, if your landlord failed to repair your leaking roof and it resulted in damage to your furniture, you need to have some sort of proof of how much it cost you before you can ask the court for damages.

Counterclaims can be an important tool to defend yourself against your landlord if he or she wants to recover the escrowed rent without doing the proper repairs, or to ask the court for reimbursement for the damage that the poor conditions have already caused you. But counterclaims can also be very complicated and maybe overwhelming for one person to handle on their own. If you have more questions or need help with a potential counterclaim, feel free to call us at **The Legal Aid Society of Columbus** toll free at 1-888-246-4420.

If you are not getting the repairs that you need, you can stand up for your rights as a tenant. By educating yourself on your rights and the rent escrow process, you are making the most of a legal system that was built to protect you.

Places to Call for Help and Information

The Legal Aid Society of Columbus

1108 City Park Ave
Columbus, OH 43206
Toll Free: 1-877-224-8374
Intake Local No.: 614-241-2001
Intake Toll Free: 1-888-246-4420
Online: www.columbuslegalaid.org

Ohio State Legal Services Association

Online: www.ohiolegalservices.org/
1-866-LAW OHIO (to access your local legal aid provider)

Franklin County Municipal Court

Clerk of Courts

Rent Escrow Program

Franklin County Courthouse
373 South High Street, 3rd Floor
Columbus, OH 43215
614-645-7420
Hours: M-F, 8:30 am-4:30 pm
Online: www.fcmcclerk.com

City of Columbus

Department of Development

Code Enforcement Section

614-645-3111 (or visit your local Neighborhood Pride Center)
Online: [td.ci.columbus.oh.us/Neighborhood%20Services/
Code%20Enforcement/code_home.htm](http://td.ci.columbus.oh.us/Neighborhood%20Services/Code%20Enforcement/code_home.htm)

Columbus Bar Association

Lawyer Referral Service

(614) 221-0754 (provides referrals to local private attorneys,
not limited to low income clients)

The information contained in this handbook was prepared to generally advise tenants of their rights and their ability to enforce their rights through the escrow process available under Ohio law. The reader should be aware that state law and court procedure do change from time to time. If you feel your case is too complicated for you to handle on your own, or you are in need of further guidance, please contact us at The Legal Aid Society of Columbus.

We are able to take a limited number of cases depending on the need of the client and the strength of the case. You can also call any of the organizations listed below for help with your rent escrow case.

The Legal Aid Society of Columbus
Housing Conditions Project
1108 City Park Avenue
Columbus, OH 43206

For Franklin and Madison Counties:
INTAKE NO.: 614-241-2001

INTAKE TOLL FREE: 1-888-246-4420

For Marion, Morrow, Delaware and Union Counties:

142 Center Street, Rear
Marion, OH 43302

TOLL FREE: 1-888-301-2411

www.columbuslegalaid.org

