



1640-B East 2nd St., Suite 150 • Austin, TX 78702
(512) 474-7007 • (512) 474-0197 fax • www.housing-rights.org

SELF-HELP REPAIR PACKET

NOTE: The information contained in this packet is not legal advice. If you need legal advice, contact an attorney.

The Austin Tenants' Council provides this Self-Help Repair Packet for informational purposes so that tenants may enforce their rights for repairs. Enclosed in this packet are the brochure Repairs: The Tenant's Rights and the Landlord's Duty, two sample repair request letters, two fill-in-the-blank repair requests, a fill-in-the-blank "Notice to Terminate" letter, a fill-in-the-blank "Petition for Relief under Sec. 92.0563 of the Texas Property Code" and guidance on a tenant's right to repair and deduct.

STEP 1

Please closely read the repair brochure so that you understand the proper process for requesting repairs. The repair brochure may also be found online at: <http://housing-rights.org> > Resources > Forms. If you do not understand what is required of you as a tenant, contact the Austin Tenants' Council or an attorney for advice.

STEP 2

Please study the sample requests for repair and then complete the appropriate repair request with information specific to your repair circumstances. Feel free to attach any additional documentation to your letter in support of your repair request (E.g. a doctor's letter, pictures of the repair problems, etc.). These forms are provided for your convenience. However, any letter that you draft on your own containing substantially similar information is acceptable.

STEP 3

It's always best to send the letters certified mail with a return receipt requested, registered mail or by any trackable mail carrier. We recommend that you also send the letter by regular first class mail to ensure receipt if the landlord refuses to claim the certified mail. If you hand-deliver the letter, you should always take a witness who is over 18 years of age or have the landlord or property manager sign a copy acknowledging receipt. Sending a letter certified mail currently costs \$6.47ⁱ. Keep all documentation from the certified mailing. Regardless of how it is delivered, always keep a copy of the letter.

A FINAL NOTE

We hope that this Self-Help Repair Packet will provide enough information to remedy the repair problem(s) you may be experiencing. However, if you need additional assistance, please call the Austin Tenants' Council's telephone counseling line at 512-474-1961.

ⁱ Rate subject to change by the U.S. Postal Service.

SAMPLE LETTER

REQUEST FOR REPAIRS

Date: July 1, 2016

ATTENTION: Manager at Blue Ridge Mountain Apartments
 102 South Congress
 Austin, Texas 78701

I, Melanie Tenant, am a tenant living at Blue Ridge Mountain Apartments, 102 South Congress, Apt. 300, Austin, Texas 78701.

Please make the following repair(s):

- The heating system is malfunctioning. There is no hot air coming out of the vents.
- The living room electrical outlet near the front door sparks and smokes when I try to use it.
- The living room ceiling is leaking from leaking pipes in the apartment above mine.
- There are cockroaches throughout my apartment; it needs complete extermination.

I believe these condition(s) constitute a threat to my health and/or safety and I would like them repaired or remedied within a reasonable amount of time.

Should you be unable to resolve the repair problem(s) within a reasonable amount of time, I request a written explanation of the reasons for the delay within five (5) days after you receive this notice.

Sincerely,

Ms. Melanie Tenant

Via Certified Letter #: 7112 3430 0002 9046 8326 and First Class Mail
and / or

Via Hand Delivery on: July 1, 2016 Witness: Mr. John Friend

Received: _____

REQUEST FOR REPAIRS

Date: _____

ATTENTION: _____

I, _____, am a tenant living at _____.

Please make the following repair(s):

I believe these condition(s) constitute a threat to my health and/or safety and I would like them repaired or remedied within a reasonable amount of time.

Should you be unable to resolve the repair problem(s) within a reasonable amount of time, I request a written explanation of the reasons for the delay within five (5) days after you receive this notice.

Sincerely,

Via Certified Letter #: _____ and First Class Mail
and / or

Via Hand Delivery on: _____ Witness: _____

Received: _____

SAMPLE LETTER

SECOND REQUEST FOR REPAIRS

Date: July 10, 2016

ATTENTION: Manager at Blue Ridge Mountain Apartments
 102 South Congress
 Austin, Texas 78701

I, Melanie Tenant, am a tenant living at Blue Ridge Mountain Apartments, 102 South Congress, Apt. 300, Austin, Texas 78701. The repairs listed below were originally requested in a letter that you received on July 3, 2015. You have not made the requested repairs.

Again, I am requesting the following repair(s):

- The heating system is malfunctioning. There is no hot air coming out of the vents.
- The living room electrical outlet near the front door sparks and smokes when I try to use it.
- The living room ceiling is leaking from leaking pipes in the apartment above mine.
- There are cockroaches throughout my apartment; it needs complete extermination.

I believe these condition(s) constitute a threat to my health and/or safety and I ask that you have them repaired or remedied within seven days from the day that you receive this letter.

Should be unable to resolve the repair problem(s) within a reasonable amount of time, I request a written explanation of the reasons for the delay within five (5) days after you receive this notice. Should you fail to comply with this second request, I will exercise my rights under Chapter 92, Subchapter B of the Texas Property Code. I may terminate my lease and move, pursue judicial remedies, and/or exercise my right to Repair and Deduct.

Sincerely,

Ms. Melanie Tenant

Via Certified Letter #: 7112 3430 0002 9046 8326 and First Class Mail
and / or

Via Hand Delivery on: July 10, 2016 Witness: Mr. John Friend

Received: _____

SECOND REQUEST FOR REPAIRS

Date: _____

ATTENTION: _____

I, _____, am a tenant living at _____

The repairs listed below were originally requested in a letter that you received on _____

Again, I am requesting the following repair(s):

I believe these condition(s) constitute a threat to my health and/or safety, and I ask that you have them repaired or remedied within seven days after you receive this letter.

Should you be unable to resolve the repair problem(s) within a reasonable amount of time, I request a written explanation of the reasons for the delay within five (5) days after you receive this notice. Should you fail to comply with this request, I will exercise my rights under Chapter 92, Subchapter B of the Texas Property Code. I may terminate my lease and move, pursue judicial remedies, and/or exercise the right to repair and deduct.

Sincerely,

Via Certified Letter #: _____ and First Class Mail
and / or

Via Hand Delivery on: _____ Witness: _____

Received: _____



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CAUTION!

PLEASE READ THE FOLLOWING BEFORE PROCEEDING

Austin Tenants' Council strongly recommends that any tenant who believes that their repair rights have been violated should contact our office for further guidance or an attorney for legal advice before considering the remedies included on the following pages.

The following pages contain documentation relating to the enforcement of remedies available to a tenant whose repair rights have been violated as described in the Texas Property Code. They are:

1. a tenant's right to terminate the lease agreement,
2. a tenant's right to file a lawsuit against a landlord asking the court to order the landlord to make the repair and
3. a tenant's right to repair and deduct.

All remedies, if not exercised according to the law and supported with documentation may lead to serious legal and/or financial problems for the tenant. Always consult Austin Tenants' Council and/or an attorney before you take any action to enforce any remedy.

NOTICE TO TERMINATE LEASE

Date: _____

Attention: _____

As permitted by Section 92.056 of the Texas Property Code, I am hereby exercising the right to terminate my lease agreement as a result of your failure to comply in a reasonable time with my request to repair condition(s) that affect my health or safety.

I will be vacating the rental premises located at _____ on _____, 20____.

Furthermore, please refund my security deposit to me within 30 days of the date that I surrender possession of the rental premises. My security deposit may be mailed to the following address:

Sincerely,

Via Certified Letter #: _____ and First Class Mail



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CAUTION!

PLEASE READ THE FOLLOWING BEFORE PROCEEDING

To exercise your right to file a lawsuit against your landlord in Justice of the Peace (JP) that requests a court order directing the landlord to make repairs, you must complete the following form titled: PETITION FOR RELIEF UNDER SECTION 92.0563 OF THE TEXAS PROPERTY CODE.

IMPORTANT: Austin Tenants Council cannot help you fill out the Petition for Relief. Only an attorney should help you complete the Petition for Relief. If you need help, please take the form to Legal Clinic, along with all of your supporting documentation, and specifically ask to speak to a lawyer. Please tell the intake representative at Legal Clinic that you need to speak to a lawyer. The Austin Tenants Council housing counselor may be present at Legal Clinic *but cannot help you with this form*.

Texas Rio Grande Legal Aid (TRLA)

Legal Clinic

Monday's evening legal clinic is held at Martin Middle School, 1601 Haskell Street, Austin, Texas 78702.

Wednesday's evening legal clinic is held at Webb Middle School, 601 East St. Johns Street, Austin, TX 78752.

For security issues, please do not come early. No one will be allowed to enter the school before 6:00 p.m. People arriving after 7:00 p.m. will be asked to come back to another clinic. Questions? Call TRLA at 512-374-2700

Finally, the following form must be completed in English and submitted to the appropriate Justice of the Peace (JP) court. There are five JP courts in Travis County. If you do not know which applies to you, please call any JP court and inquire:

Travis County Justice of the Peace Offices

- Precinct 1: 512-854-7700
- Precinct 2: 512-854-4545
- Precinct 3: 512-854-6763
- Precinct 4: 512-854-9478
- Precinct 5: 512-854-9050

Cause No. _____

Tenant: _____

V.

Landlord: _____

In the Justice Court
Precinct _____ Place _____
County, Texas

PETITION FOR RELIEF UNDER SECTION 92.0563 OF THE TEXAS PROPERTY CODE

1. **COMPLAINT:** Tenant files this petition against the above-named Landlord pursuant to Section 92.0563 of the Texas Property Code because there is a condition in Tenant's residential rental property that would materially affect the health or safety of an ordinary tenant.
Information Regarding Residential Rental Property:

Street Address Unit No. (if any) City County State Zip

Landlord's Contact Information (to the extent known):

Business Street Address Unit No. (if any) City County State Zip Phone Number

2. **SERVICE OF CITATION:** Check the box next to each statement that is true.
 Tenant received in writing Landlord's name and business street address.
 Tenant received in writing the name and business street address of Landlord's management company.
 The name of Landlord's management company is _____. To Tenant's knowledge, this is the management company's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

The name of Landlord's on-premise manager is _____. To Tenant's knowledge, this is the on-premise manager's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

The name of Landlord's rent collector serving the residential rental property is _____. To Tenant's knowledge, this is the rent collector's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

3. **LEASE AND NOTICE:** Check the box next to each statement that is true.
 The lease is oral. The lease is in writing. The lease requires the notice to repair or remedy a condition to be in writing.
 Tenant gave written notice to repair or remedy the condition on _____. The written notice to repair or remedy the condition was sent by certified mail, return receipt requested, or registered mail on _____.
 Tenant gave oral notice to repair or remedy the condition on _____.
Name of person(s) to whom notice was given: _____
Place where notice was given: _____

4. **RENT:** At the time Tenant gave notice to repair or remedy the condition, Tenant's rent was: current (no rent owed), not current but Tenant offered to pay the rent owed and Landlord did not accept it, or not current and Tenant did not offer to pay the rent owed. Tenant's rent is due on the ____ day of the month week _____ (specify any other rent-payment period). The rent is \$ _____ per month week _____ (specify any other rent-payment period). Tenant's rent (check one): is not subsidized by the government is subsidized by the government as follows, if known: \$ _____ paid by the government, and \$ _____ paid by Tenant.

5. **PROPERTY CONDITION:** Describe the property condition materially affecting the physical health or safety of an ordinary tenant that Tenant seeks to have repaired or remedied:

6. **RELIEF REQUESTED:** Tenant requests the following relief: a court order to repair or remedy the condition, a court order reducing Tenant's rent (in the amount of \$ _____ to begin on _____), actual damages in the amount of \$ _____, a civil penalty of one month's rent plus \$500, attorney's fees, and court costs. Tenant states that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees.

Tenant Signature: _____

Date: _____

Street address Unit No. (if any)

Phone Number

City State Zip

JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		2. Names of parties in case:	
Name: _____	Telephone: _____	Plaintiff(s): _____	
Address: _____	Fax: _____	Defendant(s): _____	
City/State/Zip: _____	State Bar No: _____	_____	
Email: _____		_____	
Signature: _____		[Attach additional page as necessary to list all parties]	
3. Indicate case type, or identify the most important issue in the case (select only 1):			
<input type="checkbox"/> Debt Claim: A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.		<input type="checkbox"/> Eviction: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	
<input type="checkbox"/> Repair and Remedy: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.		<input type="checkbox"/> Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	

Repair and Deductⁱⁱ

The repair and deduct law is complicated, and ATC strongly recommends that a tenant get further assistance before exercising this remedy. A tenant should contact either the Austin Tenants' Council or an attorney.

To exercise the right to repair and deduct, two things must be done:

1. The tenant must have a local housing, building, or health official or other official having jurisdiction notify the landlord in writing that the conditions affect the material health or safety of the tenant (but see exceptions described below); and
2. The tenant must deliver the required notices requesting the repair as outlined above. However, the final notice given to the landlord must state the tenant's intent to exercise the right to repair and deduct and include a reasonable description of the intended repairs. (NOTE: If the tenant sends the first request for repair by certified, registered or trackable private mail carrier, then a second notice is not required.) The first notice sent via certified, registered or trackable private mail carrier is also the final notice and must state the tenant's intent to exercise the right to repair and deduct and include a reasonable description of the intended repairs.

In Austin, the official having jurisdiction is usually a building inspector from the City of Austin's Building Inspection Department. (See below: "For Assistance in Enforcing Repair Rights.") If these conditions are met and the landlord still fails to make the repair or remedy within a reasonable time, a tenant may have the repairs made and deduct the costs from the monthly rent by using the following procedure.

The tenant's deduction for the cost of the repair or remedy may not exceed the amount of one month's rent or \$500, whichever is greater. If the tenant's rent is subsidized in whole or in part by a governmental agency, the deduction limitation of one month's rent shall mean the fair market rent of the dwelling and not the actual amount the tenant pays.

In two situations a tenant may exercise the right to repair and deduct without having an official send the landlord notice that the condition is a threat to health or safety:

1. If the landlord has failed to remedy the backup or overflow of raw sewage inside the tenant's dwelling or the flooding from broken pipes or natural drainage inside the dwelling; or
2. If the landlord has agreed to supply potable (drinking) water to the tenant's dwelling and the water service to the dwelling has totally ceased.

If the condition involves sewage or flooding, the tenant may repair and deduct immediately after giving notice of intent to repair and deduct. If the condition involves a lack of water, the tenant may repair and deduct if the landlord fails to repair the condition within three days following delivery of the tenant's notice of intent to repair.

If the condition involves inadequate heat or cooled air, the tenant may repair and deduct three days after giving notice of intent to repair and deduct (provided that an official has also sent the landlord notice that the condition is a threat to health or safety). The tenant may give only one notice provided the notice is sent by certified, registered or trackable private mail carrier. The notice must inform the landlord of the tenant's intent to repair and deduct.

ⁱⁱ See also *Repairs: The Tenant's Right and the Landlord's Duty*

Repairs must be made by a company, contractor, or repairman listed in the yellow pages or business pages of the telephone directory or in the classified advertising section of a local newspaper. Repairs may not be made by the tenant, the tenant's immediate family, the tenant's employer or employees, or a company in which the tenant has an interest.

Repairs must also be made in compliance with applicable building codes, including obtaining a building permit when required. When deducting the cost of repairs from the rent payment, the tenant shall furnish the landlord, along with the balance of the rent, a copy of the repair bill and the receipt for its payment.