

# Montana Legal Services Association

## 4 Steps to Take If Your Landlord Shuts off Your Utilities



Providing, protecting, and enhancing access to justice.

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If you rent in Montana and your landlord has turned off your utilities, this article will help you:

- Learn what legal actions you can take
- Download a form letter to send to your landlord.

### Summary:

Your landlord must maintain “essential services,” like heat, running water, hot water, electricity, and gas. In this article, we will use utilities and essential services to mean the same thing. If your landlord does not maintain your utilities, you may be able to deduct your rent or sue your landlord. There are specific steps you must follow. We will talk about each step in this article.

You can find the law that says your landlord must maintain essential services at Montana Code Annotated (M.C.A.) § 70-24-303. The “§” is a symbol that means section. 70 is the Title number. 24 is the Chapter number. And, 303 is the part number.

**Be aware:** Your landlord is not responsible for utilities that you pay. For example, if you are behind on your electric bill, you have rights but this article does not cover them. It would be a good idea to talk to a lawyer.

## 4 Steps to Take if Your Landlord Shuts off Your Utilities

You have rights if the landlord shuts off your utilities. Following these 4 steps will help you protect your rights:

1. Try to work it out with your landlord.
2. Send a demand letter.
3. Wait, and give your landlord a reasonable opportunity to fix the problem.
4. Make a decision.

If your landlord still won't turn the utilities back on after you have followed the steps, you'll need to make a decision about what to do next. You may decide to:

- Get substitute housing and deduct rent,
- Get the essential service yourself and deduct rent,
- Or, sue the landlord.

We'll go over each of the steps before talking more about what to think about when making your decision.

### 1. Try to work it out with your landlord

Talk to your landlord first. You can explain your rights. You can show them the law that says the landlord must maintain the utilities. It is usually better if you can work out the problem with your landlord before taking more action. If you do work out a deal with your landlord, get it in writing. Have the landlord sign the agreement. Keep a copy for yourself.

## **2. Send a demand letter**

If your landlord still won't turn the utilities back on, send a demand letter. The law says that you **may not** sue your landlord or deduct rent until you give the landlord written notice of the problem. In your letter you want to explain the problem, and ask the landlord to turn the utilities back on. Keep a copy for yourself. Keep your copy safe in case you have to go to court. You will need to show the court that you tried to fix the issue before suing your landlord. You will also need a copy if you decide to deduct rent. You can use our sample letter to ask your landlord to turn the utilities back on. The instructions say "How to Ask Your Landlord to Make Repairs" but it also works for utilities.

## **3. Wait and give your landlord a reasonable opportunity to fix the problem**

The law says you must give your landlord a "reasonable opportunity" to fix the problem. But, it does not say how much time is reasonable. A few days, like 3 business days, is probably reasonable. If the landlord does not turn the utilities back on after the reasonable amount of time has passed, then you will need to make a decision about what to do next.

## **4. Make a decision**

You have 3 options for what to do next. If your landlord still won't turn the utilities back on after you have sent a letter, you may:

- Get substitute housing and deduct rent,
- Get the essential service yourself and deduct rent,
- Or, sue the landlord.

Each decision has pros and cons, so keep reading to learn more so that you can make the best decision for yourself. You can find the law that says you may take these actions if the landlord shuts off your utilities in Montana Code Annotated (M.C.A.) § 70-24-408.

**Note:** You only have these options if the landlord acted purposefully or negligently in shutting off your utilities. Acting purposefully means that the landlord shut them off on purpose. Acting negligently means that the landlord did not act with the degree of care that a reasonable landlord should have.

If the landlord had nothing to do with why the utilities were shut off, then you don't have these rights. For example, if the utility company made a mistake and turned off the gas,

you can't take action against your landlord. If you pay for utilities and the utility company turned them off, talk to a lawyer.

### **Get substitute housing and deduct rent**

You may be able to find temporary housing during the time that the utilities are shut off. You can then deduct the rent that you would pay for the days that the utilities were shut off. You'll want to pro-rate the rent you deduct. For example, if you pay rent monthly, divide your monthly rent by 30, then multiply that amount by how many days the utilities were shut off.

- $\$900 \text{ monthly rent} / 30 \text{ days} = \$30$
- $\$30 \times 5 \text{ days without utilities} = \$150$  you may deduct from rent.

**Be aware:** The law does not let you force the landlord to pay for the costs of your substitute housing. You may only deduct the rent for the days that the utilities are shut off. For example, if you stay in a motel, you won't be able to make your landlord pay for the motel.

Getting substitute housing may be a good choice if you think the utilities will be turned on in a fairly short time, and you have friends or family that you can stay with for free.

### **Get the essential service yourself and deduct rent**

You may be able to get the essential service for yourself. For example, if the gas is shut off but the electricity is still on, you may buy space heaters to heat your home. You may then deduct the cost of the space heaters and the added cost of electricity from your rent. Keep receipts of anything that you must buy to provide the essential service.

The law says that you can only deduct the cost of providing "reasonable amounts" of the essential service. So, that means that you should not go out and buy extra space heaters for rooms that you normally don't heat, like a garage. You can deduct up to one month's rent. Make sure you give your landlord copies of your receipts when you pay the rest of your rent.

Getting the essential service yourself and deducting rent may be a good choice if you have nowhere else that you can stay. For example, if you have a large family, it may be harder to stay with friends or relatives. This may also be a good option if you expect that it will take a while for the landlord to turn the utilities back on.

### **Sue the landlord**

You may be able to sue your landlord for shutting off the utilities. If you can still live in the rental, you may sue the landlord for the reduced value of the rental without the utilities. This option may be more complicated because it involves finding out the value of the essential service and going to court.

If you have to move from your rental because the landlord shut off the utilities, a judge may consider that an “unlawful ouster.” If a judge finds that the landlord shut off the utilities on purpose, the judge has the power to order the landlord to pay you money. The amount of money the landlord may have to pay you would be triple the amount of your monthly rent, or triple the amount of your out-of-pocket expenses, whichever is more. You can find the law that says this at Montana Code Annotated (M.C.A.) § 70-24-411.

Going to court is complicated, and there are pros and cons to suing your landlord. It is a good idea to talk to a lawyer before you sue your landlord. A lawyer can help you understand the pros and cons, so that you may make the best decision for you. A lawyer can also help you follow the correct legal steps to sue the landlord. Montana Legal Services Association provides civil, non-criminal legal help to eligible clients at no charge.

### **Can I just move out and find a new place?**

Yes. But, there is a different process you must follow to end your rental agreement. If you end your rental agreement, you **cannot** also:

- Sue the landlord for the reduced value of the rental without the utility
- Get substitute housing and deduct rent
- Or, get the essential service yourself and deduct rent

If you must move because the landlord shut off the utilities, you still may be able to sue for triple the amount of your monthly rent, or triple the amount of your out-of-pocket expenses, whichever is more.

If you think it's better to just end your rental agreement and move out, read our article on [Moving Out or Breaking Your Lease](#).

### **Summary**

It is illegal for your landlord to shut off the utilities on purpose or because of negligence. It is usually best to try to work it out with your landlord first. Make sure you get any agreement in writing. Second, you must send a written notice to your landlord in order to take next steps. Third, you must give your landlord a “reasonable opportunity” to fix the problem. The law doesn't define “reasonable opportunity,” but 3 business days is probably reasonable. The fourth step is to make a decision. After you have given your landlord written notice and a “reasonable opportunity” to fix the problem, you may:

- Get substitute housing and deduct rent,
- Get the essential service yourself and deduct rent,

- Or, sue the landlord

There is a different process if you just want to end your rental agreement and move out. You can learn more about that process by reading our article on [Moving Out or Breaking Your Lease](#).

If you have any questions, it is a good idea to talk to a lawyer.

## **Take Action**

### **Legal Form**

You can download our sample demand letter to ask your landlord to turn your utilities back on.

### **Legal Help**

- The State Bar Lawyer Referral Service may give you contact information for attorneys who provide, for a fee, the type of assistance you are seeking. You can contact the State Bar Lawyer Referral Service at (406) 449-6577 or [montanabar.org](http://montanabar.org).
- Montana Legal Services Association (MLSA) gives free civil, non-criminal legal help to eligible clients, at no charge. Learn more about how to apply for free legal help
- If you are eligible for Montana Legal Services Association (MLSA), you may be able to get free legal advice from a volunteer attorney by email using Ask Karla.

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.