

Protections for Tenants against Retaliation by Landlord

Q₁: I think my landlord is trying to get back at me for requesting a repair. Does the law protect me?

Maybe. The law protects you if you have:

- Complained to the landlord about a condition needing repair that affects your health and safety;
- Complained to a government agency charged with enforcing building codes (such as city-county health department, fire marshal, or city building inspector) about a condition at your rental that affects your health and safety;
- Organized or joined a tenant's union or similar organization.

Q₂: What is retaliation?

Retaliation is when a landlord takes action against a tenant for doing one or more of things listed in Question 1, above. Examples of a landlord's retaliation include:

- Increasing rent;
- Evicting or threatening to evict a tenant;
- Decreasing services to the tenant, such as turning off utilities.

Q₃: Is retaliation by a landlord legal?

No. Retaliation is not legal.

Q₄: What are my rights?

You have the right to not be retaliated against. If your landlord retaliates against you, you can file a lawsuit against the landlord. If you win the lawsuit, Montana law allows you to recover from your landlord up to 3 months' rent or 3 times the amount of money that you lost because of the retaliation, whichever is greater. If your landlord files a lawsuit against you, you can use retaliation as a defense. If you show that you took one of the actions in Question 1 above, the law allows the judge to presume that the landlord's negative action against you was done in retaliation. Then the judge could refuse to enforce the landlord's negative action against you. For instance, the judge could refuse to evict you, could refuse to make you pay the increased rent, or could make the landlord restore to you any services the landlord decreased.

Q₅: Do I have to make my request for repair in writing, even if my landlord already knows what needs to be fixed?

It's best to make your request in writing. You may want to send the letter using a Certificate of Mailing, so that you have proof that you mailed it on a certain date, with proper postage. Be sure to keep a copy of the letter for yourself, with the certificate of mailing. You have to go to the

Post Office's window to get the Certificate of Mailing. It currently costs \$1.35 in addition to \$0.49 stamp (as of January 20, 2016).

The law may protect you if you didn't put your request in writing. If there's no question that the landlord knew about the repair being needed, then you may not have to show proof of a written request. But it's best to send a written request.

Q6: What else should I know?

- Timing is important – your action that triggered your rights under the law (complaining to the landlord, the building code enforcer, or joining a tenants' group – see Question 1 above) has to have happened before the landlord took the negative action against you;
- Your action must have taken place no later than 6 months before the landlord's negative action against you.

Q7: When does the law NOT protect me?

If the landlord has filed an eviction lawsuit against you, you are not protected if any of the following are true:

- You are behind on rent;
- The conditions at your rental needing repair can't be repaired while someone lives there;
- You or anyone on the premises with your consent caused the conditions needing repair.

Q8: I think my landlord may have violated the law. What do I do?

You have several options:

- Talk to your landlord, to see if you can work out the dispute by agreement.
- If the landlord has filed an eviction lawsuit against you, you can use retaliation as a defense in your written answer to the lawsuit [[answer forms packet](#)]. You can also make a counterclaim of retaliation, alleging that the landlord owes you 3 months' rent or 3 times the amount of money that you lost because of the retaliation, whichever is greater. (See Q3 above). [[counterclaim form](#)]
- If you have solid proof of the retaliation, you may choose to terminate your rental agreement by moving out. [This is a risky option. If you don't have solid proof, and you still have time left on your lease, the landlord may end up filing suit against you for moving out early.]
- You can file suit against the landlord for unlawful retaliation. Under Montana law [[70-24-431](#) and [70-24-411](#)], if you win your lawsuit, the judge may allow you to terminate

your lease, and award up to 3 times the amount of the monthly rent or 3 times the amount you suffered financially because of the retaliation, whichever is greater. If your lease is terminated, the landlord must return to you all security recoverable under the Montana Security Deposits Act, and any rent that you pre-paid to the landlord and had not used up.

Q9: Where can I go for help?

- Consult an attorney in private practice.
- Contact MLSA - fill out an [Online Application](#) for Montana Legal Services Association or call the HelpLine at 1-800-666-6899.
- For help with finding online resources or filing court papers, see if there is a [Self Help Law Center](#) in your area.