



LANDLORD – TENANT ISSUES AFTER A DISASTER

Lease Terminations and Evictions

You may need to end your lease early and live somewhere else if there is damage to your home or a change in your job status. **You may have a landlord who wants to force you to move out, even though you don't want to leave.**

Terminating a Lease

Your ability to end the lease early after a disaster - so you can move without paying any more of the rent - depends on several factors, including:

- **The content of your lease.** Some leases provide options for ending the lease early. You might find this content in a section of the lease titled **“termination provisions.”**
- **Your landlord.** Your landlord could simply agree to let you end the lease early, no matter what the lease says. If so, get this agreement in writing.
- **The amount of damage to your home and how long it will take to repair it.** New Mexico law allows tenants to terminate their leases if a disaster makes all or most of their home unlivable, if they notify their landlord within seven days. If the home is only partially unlivable, you can also stay but pay a reduced rent.

Protecting Yourself from Eviction

After a disaster, some landlords try to rent a property at a higher rate, so they evict tenants to make room for someone who can afford to pay more. Some landlords see an opportunity to illegally evict tenants when a disaster causes courts to close or tenants to temporarily evacuate.

- **Check your lease.** Take a close look at what the lease says about when the landlord has the right to evict you.
- **Check local laws.** Check out the 2025 New Mexico Renter's Guide, available online.
- **Be aware.** If a tenant asks for repairs or follows through with other actions against the landlord, the landlord might try to retaliate by filing eviction, cutting utilities, etc.

Retaliation is illegal under NMSA 47-8-39

Landlord's Refusal to Make Repairs

If you're a renter and your home was damaged by a disaster, contact your landlord right away to figure out a plan for getting the damage repaired.

If your landlord refuses to make repairs:

- **Document the damage-** Make a written list of everything that was damaged and describe the damage. Take photos and videos. Do this even if you and your landlord agree on repairs!
- **Put your request in writing-** Notify your landlord or property manager by sending a written notice.
 - The notice should include damages, photos, and videos and a request to complete the repairs by a specific date.
 - Keep a copy of any communications and documents between you and your landlord, including letters, emails, phone calls, and text messages.
- **Withholding rent - Stop paying rent-** In NM, tenants have the right to stop paying rent until major damage is repaired. Depending on the extent of the damage, you can withhold 100% or 33% of your rent.
 - To stop paying rent, you need to send your landlord a notice in writing informing them of the issue and giving them seven days to fix it. If you are unsure if the issue you are experiencing will allow you to withhold rent, you should consult with an attorney. This remedy may also be available to mobile home park residents.
- **Contact local and state authorities-** If repairs aren't being made, you could report this lack of action to the local health department or housing code enforcement office. If you live in a larger complex, the New Mexico attorney general may also be interested in investigating.
- **Rent abatement - Check your lease -** Some leases give you the right to lower your rent payments until your landlord repairs the damage to your home.
This language may be in a section of the lease described as **"rent abatement."**

Security Deposit Disputes

What if the landlord uses the deposit to pay for something it should not be used for or refuses to give it back after you move out? Under NM law, deposits can be retained for damage caused by a resident beyond normal wear and tear and unpaid rent.

- **Follow the procedures outlined in your lease agreement -**
 - **If a disaster caused damage:**
 - Document any damage with photos and videos.
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- Make a list of all damage.
 - Keep records of all communications with the landlord.
- **Before turning in your keys to your landlord:**
 - Document the condition of the empty apartment by taking photos and videos after you've removed your belongings and cleaned the apartment.
 - Give your landlord a written notice of your new address (***Keep a copy of this notice***).
 - Try to reach an agreement by talking to your landlord or property manager.
- **As a last resort, you may want to try to resolve the dispute through mediation or small claims court.**

If your landlord keeps any part of your deposit, by law, they must give you an itemized written list of the damage the deposit they keep is meant to cover.

If you're facing a disaster-related legal issue, we're here to assist you.

CONTACT US:

- **Call** our Disaster Hotline at 1-855-204-2569, Monday to Friday, from 9 a.m. to 5 p.m., or leave a message 24/7.
- **Email** the Disaster Legal Services Team at disasterlegalservices@nmlegalaid.org.

FOLLOW US ON FACEBOOK:

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