THE INFORMATION PROVIDED IN THIS HANDOUT DOES NOT, AND IS NOT INTENDED TO, CONSTITUTE LEGAL ADVICE; INSTEAD, ALL INFORMATION IS FOR GENERAL INFORMATIONAL PURPOSES ONLY. YOU SHOULD CONTACT AN ATTORNEY TO OBTAIN ADVICE WITH RESPECT TO ANY PARTICULAR LEGAL MATTER. UPDATED AS OF APRIL 2021.

Colorado Poverty Law Project

Colorado Warranty of Habitability Flow Chart C.R.S. § 38–12–501 to 511

NOTICE

Tenant gives landlord **electronic notice** of a habitability condition to the e-mail address, phone number, or electronic portal specified by the landlord in the rental agreement
In the absence of such a provision in the rental agreement, the tenant shall communicate with the landlord in a manner that the landlord has previously used to communicate with the tenant. The tenant shall retain sufficient proof of delivery of the electronic notice.C.R.S. 38-12-503(2.3).

LL RESPONSE

A landlord must **respond to the tenant within 24 hours** (1 day) with his/her intentions for remedying the condition, including an estimate of when the remediation will commence and when it will be completed.C.R.S. 38-12-503(2.5).

REMEDIAL ACTION

Landlord must commence remedial action (reasonable efforts) within:

TIMING

24 hours (1 day), where the condition materially interferes with the tenant's life, health, or safety

96 hours (4 days) for all others, and the tenant has included with the notice permission to the landlord or to the landlord's authorized agent to enter the residential premises._C.R.S. 38-12-503(2)(b)(I)-(II).

If issue is **MOLD**:
96 hours after receiving reasonably complete written or electronic notice of the condition, LL must mitigate immediate risk from mold by installing a containment, stopping active sources of water to the mold, and installing a high-efficiency particulate air filtration device to reduce tenants' exposure to mold. LL must also maintain the containment; and Within a reasonable amount of time, o the following remedial actions to remove the health risk posed by mold:
(I) Establish appropriate protections for workers and occupants;
(II) Eliminate or limit moisture sources and dry all materials;
(III) Decontaminate or remove damaged materials as appropriate;
(IV) Evaluate whether the premises has been successfully remediated; and
(V) Reassemble the premises to control sources of moisture and nutrients and thereby prevent or limit the recurrence of mold.
C.R.S. 38-12-503(2.2)(a)-(c).

TENANT REMEDIES

If the condition materially interferes with the tenant's life, health, or safety,the landlord, at the request of the tenant, shall provide the tenant:
(I) A comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant; or
(II) A hotel room, as selected by the landlord, at no expense or cost to the tenant.

A landlord is not required to pay for any other expenses of a tenant that arise after the relocation. A tenant continues to be responsible for payment of rent during the period of any temporary relocation and for the remainder of the term of the rental agreement following the remediation. C.R.S. 38-12-503(4)(a)-(b).

BREACH: LL does not remediate in time frame required

If the **landlord does not remediate** in the required timeframe, the tenant must send a separate notice stating that s/he plans to terminate and vacate in a period between 10-30 days from giving notice. If the landlord remediates within **5 business days** of receiving this notice, the tenant cannot terminate.C.R.S. 38-12-507(a).

If the same condition that substantially caused a breach of the WOH **recurs within six months** after the condition is repaired or remedied, other than an appliance malfunction, the tenant may terminate the rental agreement **14 days** after providing the landlord written or electronic notice of the tenant's intent to do so. The notice must include a description of the condition and the date of the termination of the rental agreement.C.R.S. 38-12-507(3)(a).

If the **same appliance malfunction recurs within six months**, the tenant may terminate the rental agreement **14 days** after providing the landlord written or electronic notice of the tenant's intent to do so. The notice must include a description of the condition and the date of the termination of the rental agreement. However, if the landlord remedies the condition within 14 days after receiving the notice, the tenant may not terminate the rental agreement.C.R.S. 38-12-507(3)(b).

A tenant may obtain **injunctive relief and damages** for breach of the warranty of habitability. C.R.S. 38-12-507(1)(b)(I).

The tenant may **deduct from one or more rent payments the cost of repairing** or remedying a condition. At least **10 days** before deducting costs from a rent payment, a tenant shall provide the landlord with written or electronic notice of the tenant's intent to do so. The notice must specify:
1) the date of notification,
2) the name of the landlord or property manager,
3) the address of the rental property,
4) the condition that requires a repair or remedy,
5) the date upon which the tenant provided notice to the landlord of the condition that requires a repair or remedy, and
6) a copy of at least one good-faith estimate of costs to repair or remedy the condition, which estimate has been prepared by a professional who is unrelated to the tenant, is trained to perform the work for which the estimate is being prepared, and complies with all licensing, certification, or registration requirements of this state that apply to the performance of the work.

After a tenant provides a landlord notice of the tenant's intent to deduct costs, the landlord has **4 business days** to obtain one or more good-faith estimates of such costs in addition to any estimate that the tenant included in the notice. The landlord thereafter shall commence work to repair or remedy the condition**as soon as reasonably possible**.C.R.S. 38-12-507(1)(e)(I)(B) (III).

If the landlord does not obtain any additional estimates within the 4 days, the tenant may proceed to deduct costs from one or more rent payments, based on the estimate acquired by the tenant, until the entire amount of the estimate is deducted.C.R.S. 38-12-507(1)(e)(I)(B)(IV).

What is WOH?

(1) A residential premises is deemed uninhabitable if:
(a) There is mold that is associated with dampness, or there is any other condition causing the residential premises to be damp, which condition, if not remedied, would materially interfere with the health or safety of the tenant, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their proper functioning and intended use; or
(b) It substantially lacks any of the following characteristics:
(I) Functioning appliances that conformed to applicable law at the time of installation and that are maintained in good working order;
(II) Waterproofing and weather protection of roof and exterior walls maintained in good working order, including unbroken windows and doors;
(III) Plumbing or gas facilities that conformed to applicable law in effect at the time of installation and that are maintained in good working order;
(IV) Running water and reasonable amounts of hot water at all times furnished to appropriate fixtures and connected to a sewage disposal system approved under applicable law;
(V) Functioning heating facilities that conformed to applicable law at the time of installation and that are maintained in good working order;
(VI) Electrical lighting, with wiring and electrical equipment that conformed to applicable law at the time of installation, maintained in good working order;
(VII) Common areas and areas under the control of the landlord that are kept reasonably clean, sanitary, and free from all accumulations of debris, filth, rubbish, and garbage and that have appropriate extermination in response to the infestation of rodents or vermin;
(VIII) Appropriate extermination in response to the infestation of rodents or vermin throughout a residential premises;
(IX) An adequate number of appropriate exterior receptacles for garbage and rubbish, in good repair;
(X) Floors, stairways, and railings maintained in good repair;
(XI) Locks on all exterior doors and locks or security devices on windows designed to be opened that are maintained in good working order; or
(XII) Compliance with all applicable building, housing, and health codes, the violation of which would constitute a condition that materially interferes with the life, health, or safety of the tenant.
(2) No deficiency in the common area shall render a residential premises uninhabitable as set forth in subsection (1) of this section, unless it materially and substantially limits the tenant's use of his or her dwelling unit.