

Colorado Legal Services

Legal help for low-income Coloradans seeking assistance with civil legal needs



www.coloradolegalservices.org

What to Do About Mold

Tenant Rights in Colorado: Mold & Warrant of Habitability

By law, every residential lease in Colorado includes a Warranty of Habitability. The Warranty of Habitability requires landlords to maintain living spaces they rent out up to some basic standards. The law requires that landlords keep rental units safe and “fit for human habitation.”

Your landlord does not have any duty under the Warranty of Habitability to fix your residence until they receive **written or electronic notice** about the repair problems. This is why it is essential that you give your landlord written notice about the details of the problem.

Make sure to keep a copy of all notices, communication with your landlord, and proof that notices were sent and received!

Under the Warranty of Habitability, one of the ways a rental unit can be found to be uninhabitable is if there is mold associated with dampness or if there is some other condition causing dampness that would significantly interfere with a tenant’s health or safety. The existence of small amounts of mold or moisture that happens with the normal use of appliances or fixtures does not make a rental unit uninhabitable under the law.

Tenant Duties

Tenants have some duties under the Warranty of Habitability. Tenants are required to:

- Use their residence in a reasonably clean and safe manner
- Use electrical, plumbing, heating, AC, sanitary, elevators and other facilities and appliances in a reasonable manner, and
- Promptly let their landlord know about a problem that makes or would make the property uninhabitable

Since a landlord is not responsible for problems in one of their rentals caused by the tenant, that means that tenants need to make sure that they are not responsible for the existence of mold in their residence before taking actions to force the landlord to fix the problem. This would include running bathroom exhaust fans and wiping down showers and not running humidifiers if they are

causing mold issues.

Landlord Duties

Within 96 hours (4 days) of receiving written or electronic notice with details about the mold issue, a landlords are required to

- Install something to stop active sources of water from getting to the mold, and
- Install a high-efficiency particulate air filtration device to reduce your household's exposure to the mold

Landlords are responsible for maintaining these systems until all of the work is done to fix the problem.

Then, within a reasonable amount of time, landlord must:

- Establish protections for workers and tenants
- Eliminate or limit the sources of moisture and make sure everything is dry
- Decontaminate or remove damaged materials
- Evaluate whether they have properly fixed the problem, and
- Reassemble the premises to control sources of mold to prevent or limit its future growth

If a landlord fails to do any or all of these things, their tenant would have several options including: ending your lease, calling local health departments, suing your landlord or deducting rent to pay for repairs.

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