

Unlivable Conditions Affidavit

(Affirmative Defense for Unpaid Rent)

1. My/Our Name(s):

2. Case Number:

3. Background

I submit this affirmative defense under Colorado Revised Statute (C.R.S.) section (§) 38-12-507(1)(c).

- a) Our rental agreement was entered into, extended, or renewed on or after September 1, 2008.
- b) The landlord failed to repair the rental home, making it uninhabitable, which breached the warranty of habitability.

4. Conditions of Life, Health, and Safety

C.R.S. § 38-12-505(4)

The condition of my rental home materially affected my life, health, or safety because of (a/an):
(check all that apply)

- Lack of weather protection (including roof and exterior windows and doors).
- Hazardous gas equipment (including piping, facilities, and appliances).
- Inadequate running (hot) water (doesn't include temporary disruptions in service).
- Lack of heat (up to code, well maintained, and functions October through April).
- Lack of electricity (including failure to maintain wiring, appliances, or facilities).
- Lack of working locks or security devices (including on all exterior windows that can open).
- Lack of working plumbing (including sewage disposal).
- Infestation (including rodents, vermin, pests, or insects).
- Inaccessible fire exits.
- Improper venting on HVAC systems.
- Inoperable elevator, and I have a disability that prevents me from using the stairs.

5. Conditions of Habitability

C.R.S. § 38-12-505(1)(b)

My rental home was not habitable, because it (lacked): (check all that apply – not a complete list)

- Wasn't clear of mold from dampness (which materially interferes with my health or safety).
- Functioning appliances that are maintained in good working order.
- Reasonably clean and sanitary common areas (that materially affect my home).
- Appropriate (number of) outdoor trash receptacles in good repair for common areas.

- Floors, stairways, elevators, and railings in good repair.
- Compliance with building, housing, and health codes applicable to the property (that materially interfere with my life, health, or safety).
- Repairs and clean up from an environmental public health event. See C.R.S. §§ 38-12-503(2)(a)(III).
- Other:

6. Notice

I informed my landlord, or their agent, about these conditions, by: *(check at least one)*

- Written Note or Letter. Email or E-portal System. Other:

On: *(enter dates)*

7. Retaliation

Did the landlord retaliate against you for reporting the unlivable condition(s)? *(yes or no*)*

*** If yes, how did they retaliate?**

- Increasing Rent. Decreasing Services. Bringing / Threatening Eviction.
 Other:

8. Costs Deducted from Rent

Did you pay to fix the conditions and deduct that from your rent?

- No. **[Skip to Section 9]**
 Yes, I paid: *(check all that apply)*

- a) A licensed or qualified professional *(not related to me)* to fix the condition.
 b) To replace a broken or malfunctioning appliance.

I notified the landlord in writing that I intended to pay to fix the condition and take it out of my rent on: *(date notified)*

The professional completed work / I bought the appliance on: *(date)*

The cost was: \$

I sent the receipt/invoice/proof of payment to the landlord on *(date)*

9. Remedies

I would like the court to:

see C.R.S. § 38-12-507(2)(g)

- a) Deny possession of the premises to the landlord. This is conditional on me paying the adjusted rental value within 30 days.
- b) Order the Landlord to fix any uninhabitable conditions within a set time.
- c) Reduce the premise's fair rental value during its uninhabitable state.
- d) Order the Landlord to reimburse any overpayment in rent during the home's uninhabitable state.
- e) Determine and award me any actual damages, costs, and attorney fees.
- f) Determine if any outstanding rent is owed.

10. Verified Signatures

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the *(date)* day of *(month)* *(year)*
at City: *(or other location)*
and State: *(or country)*

Print Your Name(s):

Your Signature(s):

Lawyer Signature: *(If any)*

Note on Filing

- Be sure to include this affidavit with your response form (JDF 103 – Eviction Answer).