

But I withheld, or want to withhold, rent because the apartment is in such bad condition!

In Wisconsin, tenants **should never withhold 100% of the rent** due to the condition of the apartment, even if it is in extremely poor condition or requires extensive repairs. Tenants do have some legal options for dealing with poor housing conditions, however. Before you do anything, know your rights and what the law says.

The law in Wisconsin does mention rent abatement (a reduction in rent), but unfortunately it is not very clear on the method of getting a rent reduction. Here is what the law, Wisconsin Statute § 704.07(4), actually says:

[If a] condition *materially affects the health or safety of the tenant or substantially affects the use and occupancy of the premises*, **rent abates to the extent the tenant is deprived of the full normal use of the premises**.

This section does not authorize rent to be withheld in full, if the tenant remains in possession. . . . This subsection is inapplicable if the damage or condition is caused by negligence or improper use by the tenant.

In most situations, there are some standard first steps to take:

Contact the Landlord

Tell your landlord right away about what needs to be repaired, and keep a paper record of it to protect yourself legally.

Put it in Writing

Write down every time you talk to your landlord or ask for repairs. This can help and be used as evidence if you need to go to court. If your landlord doesn't fix things or reply within a reasonable time and it's not an emergency, send another letter with a new deadline. You can also tell them that if they don't reply, you might pay less rent that month ("abate rent") under Wis. Stat. § 704.07. Save copies of everything, like phone calls, texts, and emails about when repairs should happen. Also, keep track of any damage that gets worse because the landlord won't fix it.

You need to give the landlord reasonable time to fix the problem. How long is reasonable depends on how serious the problem is and how long it might take to fix it. If your heat isn't working in winter and your landlord doesn't respond to your first phone call . . . call the building inspector right away.

Call the Building Inspector

If the landlord doesn't fix the problems, you can call the local Building Inspector to get your landlord to make repairs.

File a complaint with the Department of Agriculture, Trade and Consumer Protection

See [Filing a consumer complaint](#)

If, after those steps, the landlord still has not fixed things, you can start considering rent abatement. Here are some things to consider with rent abatement:

Local rent abatement programs

Find out whether you live in a locality in Wisconsin that has its own rent abatement program or procedure. [Madison](#), [Fitchburg](#), [Milwaukee](#), [Kenosha](#) and [Wausau](#) each have their own rent abatement programs. Unfortunately, not all of these places have made it convenient to access their own programs. Madison and Wausau have more

robust programs, while Fitchburg, Milwaukee, and Kenosha do not.

If you live in any of these places, it is recommended that you try to go through the official program rather than abating rent on your own. Although generally recommended as best practice, it is important to know that the language of the State law does not require a tenant to engage with the local rent abatement program, and a tenant can abate their rent on their own, although it is more risky.

How much to reduce your rent

Some of the localities mentioned above have charts that explain what percentage the rent can be reduced for specific problems with the premises. No matter where you live in Wisconsin, you can use these charts to help you make a reasoned decision as to how much to reduce your rent.

As examples:

- [Madison](#) suggests a 10-25% per room rent reduction for mold in the room causing documented health problems (but only a 5-10% per room rent reduction if there are not documented health problems).
- [Fitchburg](#) suggests a 25-50% rent reduction if the hot water tank is not functional or not provided.
- [Wausau](#) suggests a 5% reduction for each non-functioning light switch.

This can be helpful to explain what you are doing in a letter to your landlord, and may be helpful later if you need to explain your reasoning to a judge. The more rent you withhold, the more risk you assume.

You should not just take a wild guess at how much to take out of your rent each month. Remember that, sooner rather than later, you will likely be in front of a judge explaining why you reduced your rent the amount you did. Having the specific ordinances to give the judge to back you up will make your case stronger.

It's always risky

Even if you reduce only a little and according to the ordinances, **failing to pay your full rent is ALWAYS RISKY!** Anytime you don't pay your full rent, you always run the risk of your landlord giving you an eviction notice. You and the landlord will then both have a chance to present your cases to the court. Even if the court agrees that

you could reduce your rent somewhat, if the official thinks you reduced the rent by too much, then you could be evicted.

Landlords are prohibited from retaliation in certain circumstances

State law prohibits landlords from retaliating against a tenant, either by seeking to evict, or raising rent, solely because the tenant contacted local building code enforcement. Some municipalities, like Milwaukee, also have ordinances preventing landlords from retaliation against tenants who contact the building inspector.

You may have other options besides rent abatement:

Sue for past rent abatement

With this option, you pay your full rent at the time it's due, but then afterwards you sue the landlord to RETURN some of that rent money to you. This option is of course less risky in terms of eviction, but it does require filing your own lawsuit. You also may have already moved out of the premises at the time of the lawsuit, so it will be important for you to document the bad conditions with photographs and videos while you are living in them.

Move out due to uninhabitable conditions: “constructive eviction”

If the conditions of the premises, or the repairs themselves, are causing such severe health and safety problems that you can no longer live in the rented space, then you may need to move out. This is called “constructive eviction” and it carries some risk.

Constructive eviction is a defense. This means that you cannot go to court and ask to be constructively evicted. It only comes up in court if the landlord sues you for unpaid rent. Then you can raise the defense that you don't owe the rent because you were constructively evicted due to the unit being uninhabitable.

You will need to have proof of the uninhabitable conditions to show the judge, so it is important that you document everything. If you try to raise a constructive eviction

defense and the judge does not agree that it was necessary to move out, you may be liable for rental payments left in your lease period.

Constructive eviction is rare. To successfully make a claim of constructive eviction, all of the following must be true:

1. There must be a severe health or safety hazard
2. The tenant must give the landlord a reasonable amount of time to repair the problem; and
3. It is not repaired (or the repair is so intrusive that it will impose “undue hardship” on the tenant)

Example: There was a fire or a flood that caused you to be unable to live in your rental unit until it was repaired.

Tips:

- During your tenancy, document all the repair problems, requests to the landlord, and condition of the rental unit.
 - After you move in, immediately let the landlord know of any repair problems or pest issues.
 - It is really important to report peeling paint, especially in older homes, as there might be potential lead paint hazards.
 - Before or at the time you leave, send your landlord notice that you are leaving due to the rental unit being uninhabitable.
 - Keep track of any costs you incur due to having to leave your unit.
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What are the landlord’s repair responsibilities?

Landlords in Wisconsin are generally responsible for keeping all rental properties habitable. This includes ensuring that the premises comply with housing codes and are fit for human habitation.

Landlords are responsible for keeping the following in good condition:

- [Heat](#), plumbing, electrical, and building structures.

- **Common areas**, like hallways, storage areas, laundry rooms, parking lots, and yards.
- Working **smoke detectors** on each floor, including the basement. Must be repaired within 5 days of written notice from the tenant.
- Landlords must also follow all local **housing codes**. If more than one tenant lives in the building, the landlord has a duty to maintain the building for all tenants, even if one of the tenants in the building is responsible for the damage.
- Landlords must install and maintain **carbon monoxide detectors**.
- Landlords must disclose any of the following prior to accepting earnest money or signing a lease agreement:
 - If there are code violations which the landlord knows about, which significantly affect health and safety;
 - If the landlord knows or should know based on reasonable inspection that:
 - The unit lacks **hot or cold running water**;
 - The heat is not capable of maintaining **67 degrees**;
 - The electricity, wiring, outlets, fixtures or other **electrical components** are not in safe operating condition;
 - **Plumbing** or **sewage** are not in good operating conditions;
 - Other conditions which constitute a substantial hazard to health or safety, or which create an unreasonable risk of personal injury. (This could be pest infestation or peeling paint in pre-1978 homes!)
 - A violation of these disclosures is a violation of consumer protection regulations, which means the tenant can claim double their damages, or potential rent abatement through their tenancy. They can also claim attorney's fees.
- Landlords must also, according to Federal law, provide lead hazard disclosures for houses built prior to 1978.

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[Possible Defenses Eviction Housing](#)

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