



How Do I Handle NYCHA Termination-of-Tenancy Procedures?

WHAT DOES TERMINATION OF TENANCY MEAN?

Termination of tenancy is the **first step in the eviction process**. In order to evict you from your home, the New York City Housing Authority (NYCHA) must first end your tenancy in accordance with very specific rules.

If your tenancy is terminated, NYCHA must still go to Housing Court to get a court order to evict you. Winning in court, however, is very difficult for a tenant if NYCHA has already won the termination proceeding.

FOR WHAT REASONS CAN MY TENANCY BE TERMINATED?

NYCHA can terminate your tenancy (evict you) for the following reasons:

1. **Non-Desirability:** Bad conduct (such as use or possession of drugs) by you or anyone living in your apartment or visiting frequently, showing: danger or nuisance to your neighbors, a sex or morals offense in or near a NYCHA project, danger to NYCHA employees, or damage to NYCHA property.
2. **Breach of Rules and Regulations:** Violation of any NYCHA rule or regulation by you or anyone living in your apartment. In such cases, NYCHA must give you a chance to correct the problem.
3. **Chronic Breach of Rules and Regulations:** Either (1) the repeated violation by you or anyone living in your apartment of NYCHA rules and regulations, or (2) one repetition of a violation of a NYCHA rule or regulation that you previously told NYCHA was corrected. In these situations, NYCHA will NOT give you a second chance to correct the problem.
4. **Chronic Delinquency in the Payment of Rent:** Frequently paying your rent late, even if it is now paid up.
5. **Non-Verifiable Income:** Failure, neglect, or refusal to provide proof of your family's annual income that is acceptable to NYCHA.
6. **Assignment or Transfer of Possession:** The tenant of record (who signed the lease) has moved out or no longer lives in the apartment, and someone else is living there.
7. **Misrepresentation:** Purposefully misstating to or hiding from NYCHA a vital fact about your eligibility for admission to or continued occupancy of NYCHA housing, or about your rent.

Going Directly to Housing Court

In some situations, NYCHA will take you directly to court for eviction instead of starting with termination of tenancy proceedings. You will NOT have the hearing discussed below, but you have the right to present your defenses in the Housing Court.

(1) Non-Payment of Rent: Failure to pay your rent. NYCHA will take people directly to court for as little as **one** month's rent due.

(2) The tenant of record (who signed the lease) moved out or died: NYCHA will go to court to evict you as a licensee (living there with permission from the tenant of record) or squatter (living there without permission).

In this situation, the ONLY people who can stay are **remaining family members**, meaning they (a) were **born or adopted** into the family of the tenant of record or (b) had **written permission from NYCHA** to be added to the family and live permanently in the apartment.

If you are in one of these categories, or think NYCHA wrongfully denied permission to add you to the family, you can raise this defense in the Housing Court. You also have the right to file a **grievance** with NYCHA arguing that you should be a remaining family member. (See separate MFY Fact Sheets.)

WHAT HAPPENS IF NYCHA SAYS THAT I DID THESE THINGS?

Notices about Termination of Tenancy are very serious.

If you do not respond, NYCHA can evict you.

It is a good idea to consult a lawyer right away.

In most cases, first the NYCHA **Project Manager** or the Manager's representative sends a letter and **meets with you** to discuss the problem. The Manager must give you an **opportunity to present your side of the story**. The Manager may decide that you should not be evicted, or may give you time to fix the problem.

If the Manager believes you should be evicted, you will receive a notice and a **hearing date**. You should be provided with a copy of NYCHA's termination hearing procedures, which explain the process and your rights, when you are sent this notice.

WHAT DO I DO AFTER I GET THE NOTICE?

IF YOU MISS THE HEARING DATE YOU COULD BE EVICTED.

First, when you receive the notice, you can send an **answer** to NYCHA's charges. Your answer should **explain your defenses**: (1) **why you did not do the things** NYCHA says you did, AND (2) **any mitigating circumstances**.

Mitigating circumstances are facts about you or your family that support a finding that your tenancy should not be terminated **even if the charges against you are true**. Examples are:

- You cured (fixed) the problem that caused the charges in the first place.
- The person who did something wrong moved out or got treatment for a condition that caused the bad behavior.

- A problem with welfare that caused the rent to be paid late was solved.

- You or your household had been good tenants and neighbors in the past.
- You have been a resident in public housing for many years.
- You are an upstanding member of your community.

Critically important, DO NOT MISS YOUR HEARING! If you do, the Hearing Officer will hold you in default which almost always means that **you will be evicted**.

HOW DO I KNOW WHAT EVIDENCE NYCHA HAS AGAINST ME?

Before the hearing, you or your lawyer or other representative must be allowed to see all of the papers and materials that NYCHA has about the things they say you did (except names of people not involved in the proceeding).

WHAT IF I MISS THE HEARING DATE?

If you miss the hearing date, **GO TO 250 BROADWAY IMMEDIATELY**. Tell them that you missed a hearing and ask for another hearing date.

If you do this within a reasonable time afterward and provide a **good excuse for not appearing**, the Hearing Officer may cancel your default and set a new hearing date.

Whenever you ask that your default be excused, you **must** also **say what your defense to the case is**, for example that NYCHA's charges are not true.

WHAT HAPPENS AT THE HEARING?

The **first time you go to 250 Broadway**--on the date written on the notice you received--a full hearing before a Hearing Officer will not usually take place. Instead, in all but the most serious cases, a representative of NYCHA will meet with you to discuss your signing a stipulation to settle your case. **This person represents your landlord, NYCHA.**

(1) STIPULATIONS OF SETTLEMENT

A stipulation of settlement is a **written agreement ending a case without a hearing**.

Stipulations of Settlement

Often, **NYCHA will offer to STOP trying to evict you** if you sign a stipulation of settlement. If you sign, you avoid going to a hearing and risking eviction. However, the stipulations usually have **conditions that put you at risk of eviction in the future**.

- If possible, **consult a lawyer** before you sign anything, especially in a **non-desirability** case.
- By signing, you are agreeing to the **CONDITIONS** in the stipulation—such as years of probation that could subject you to eviction if you break even one minor rule, or having to exclude a member of your family from your home and from the entire project.
- If the conditions are violated, NYCHA can evict you **just by showing the condition was violated**; you will not be able to argue later that the condition was wrong or unfair.

Understand What NYCHA Means by Probation!

General probation means that your tenancy may be terminated in the future for violating probation if you break **ANY** NYCHA rule or regulation, **even if it has nothing to do with the original charges**. Probation can also be **specific**, such as requiring continued absence of a household member.

Probation should be time-limited. After a hearing, the Hearing Officer can impose **AT MOST** one-year probation. In its stipulations, however, NYCHA routinely offers 2-5 years of general probation and sometimes states that continued absence is forever.

Beware of Permanent Exclusion and Continued Absence!

These phrases mean that the person named cannot live in your apartment, and **usually cannot visit**. Permanent exclusion, and sometimes continued absence, are **permanent**. They do not end when probation ends.

If that person comes to your door and someone lets him/her in, **even for a few minutes**, you will be considered to have broken your agreement and will be at serious risk of eviction, no matter what the situation is.

NYCHA usually requires, in its stipulations, that you agree to let its employees come into your home **any time, day or night**, to check to see if that person is there. If you do not let them in, you will be considered to have broken your agreement and will be at serious risk of eviction.

**READ VERY CAREFULLY and MAKE SURE YOU UNDERSTAND WHAT YOU ARE AGREEING TO.
Do not sign anything before or at the hearing unless you understand what you are signing.**

(2) THE HEARING

If you and NYCHA do not agree to a stipulation, the next step is **a formal hearing before a Hearing Officer**, who is required by law to be impartial.

Tip: If you are not ready for any reason on the date of the hearing, including your inability to fix the problem that prompted the hearing, ask for an **adjournment**.

At the hearing, **NYCHA's lawyer must prove the grounds for eviction** set forth in its notice.

- You have the right to present evidence and to explain **mitigating circumstances** (reasons why your tenancy should not be terminated; see above).
- You have the **right to a lawyer or someone else** you choose to represent you.

The Hearing Officer must make a decision in writing within a reasonable time. The Hearing Officer must choose **one** of the following outcomes:

- (1) you can be evicted
- (2) you can be given probation for up to one year
- (3) you can keep your apartment but you must permanently exclude one or more persons in the household
- (4) you can keep your apartment but are referred to social services for help
- (5) you can keep your apartment without any condition

If the decision is to evict you, NYCHA must go to the **Housing Court** to get a **warrant of eviction** allowing a marshal to forcibly evict you. NYCHA will issue you a **Notice to Vacate**, followed by a **Petition and Notice of Petition** (to go to the Housing Court).

WHAT HAPPENS IF I DISAGREE WITH THE DECISION?

You have a limited right to go to court to ask for a review of the Hearing Officer's decision, called an **Article 78 Proceeding**. **YOU MUST DO SO WITHIN 4 MONTHS**. YOU WILL **NOT** BE ABLE TO APPEAL THE DECISION IN THE HOUSING COURT, where NYCHA takes you to get the warrant of eviction.

Remember: You CANNOT appeal the Hearing Officer's decision in Housing Court. You must go to the SUPREME COURT and ask to file an Article 78 Proceeding within 4 MONTHS of the decision.

- It is a good idea to consult a lawyer **quickly** if you would like to challenge the Hearing Officer's decision in court.

WHO CAN I CONTACT IF I HAVE QUESTIONS?

You may call MFY Legal Services, Inc.'s Housing Projects on Mondays, Wednesdays, and Fridays from 2:00 p.m. to 4:30 p.m. at 212-417-3888.

Mental health consumers may also call MFY Legal Services, Inc.'s Mental Health Law Project on Mondays, Tuesdays, and Thursdays from 10:00 a.m. to 5:00 p.m. at 212-417-3830.

DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.