

LANDLORD/TENANT ANSWER IN PERSON FACT SHEET (CIV-LT-91)



#7: IMPROPER RENT AMOUNT: RENT STABILIZED

Defense # 7 says: The monthly rent being requested is not the legal rent or the amount on the current lease. This defense is also called "improper rent amount."

The petition may only ask for the proper (correct) rent amount. If you are a rent stabilized tenant, the proper rent amount is either the "legal rent stabilized rent" or the rent in your lease, whatever is lower. If the landlord or owner is charging you a rent that is lower than the legal rent stabilized rent, this is called a "preferential rent."

The "legal rent stabilized rent" is the correct rent that the landlord or owner can charge the tenant of a rent stabilized apartment. The landlord or owner must register the rent with the New York State Division of Housing and Community Renewal ("DHCR"). The Rent Stabilization system protects tenants from big rent increases by regulating the rent and the rent raises that landlords can charge. Every year, the Rent Guidelines Board sets the upper (high) limit that a landlord or owner can increase a one or two year renewal lease and new leases. Special increases are also available for "landlord hardship" and certain "improvements" to the apartment or building. The landlord or owner can't increase the rent until the end of the lease term and must send the tenant a renewal lease and register the rent with the DHCR.

The landlord or owner must attach to your lease, and any renewal leases, the Rent Stabilization "Lease Rider." The rider shows the rental history of your apartment. That includes the past rent for the apartment, and the reasons the rent was raised. If you are not sure what the legal rent stabilized rent is for your apartment, you can get the rent history from the DHCR by calling (212) 961-8930 or (718) 739-6400.

A "preferential rent" is a rent which a landlord or owner agreed to charge that is lower than the amount that can legally be charged under the Rent Stabilization Law. For example, a landlord or owner may charge a lower rent because the tenant is a friend, or because the landlord or owner can't rent the apartment for the legal rent because it is too high for the market.

If the rent asked for in the petition is not the legal rent or the rent in your current lease, tell the Judge or Court Attorney when you go to court. The landlord or owner has to prove to the court that the amount of rent in the petition is correct. You should bring any lease renewals, letters, or information from the New York State Division of Housing and Community Renewal with you to prove your defense. If the court finds that the petition is wrong, the court can dismiss the nonpayment case. But, the landlord or owner can ask the judge to allow the petition to be corrected or "amended," without having to start a new case against you. If that happens, the judge will decide if he or she wants to dismiss the case or to permit the amendment.

If you have paid more rent than the landlord or owner is legally entitled to collect, then you may also have defense #8, rent overcharge.