

**General Information and Instructions for Completing Complaint for Non-registration
or Complaint for Excess Rent Receipt and Retention**

When to File a Complaint for Non-registration and/or Excess Rent Receipt and Retention:

Non-registration: If you believe that a registration form filed for your unit or building is incomplete or that there is no registration form filed on your property, you may complete the attached complaint form. Please refer to Subchapter B, Section 8010 of the Board's Chapter 8 regulations for specific criteria with respect to incomplete registration.

Excess Rent Receipt and Retention: If you believe that your landlord has collected from you more than the maximum lawful amount of rent permitted by the Rent Control Law, you should complete the attached form. You must attach copies of all documents which show the amount of rent you paid. Please refer to Subchapter C, Section 8020, of the Board's Chapter 8 regulations for specific examples and criteria with respect to the ways you might have paid excess rent.

Courses of Action (Election of Remedies)

There are two ways for tenants to pursue a claim of payment of excess rent: (1) Civil lawsuit through the court system; and, (2) Administrative remedy with the Rent Control Board [through the Rent Control Board's procedures as set forth in Chapter 8 of the Board's regulations].

If you have a pending lawsuit for excess rent in the court system, you cannot file a complaint with the Rent Control Board for any period of time which is covered in the court case. Conversely, if you submit a complaint for excess rent with the Rent Control Board and a hearing has begun, you cannot then file the same case in court.

Therefore, it is important to understand the pros and cons of each type of remedy before you file any claim of excess rent. The election of remedies is discussed in Chapter 8, Section 8021. Please note that, in addition to the refund of excess rent, the maximum potential penalty is limited to \$500 in the administrative hearing. Depending on proof, a court may award three times the excess rent (treble damages). Therefore, a tenant may be giving up substantial awards by selecting an administrative proceeding. However, there may be other benefits to pursuing an administrative complaint process. You may wish to consult an attorney before filing any claim of excess rent.

Limitations In Administrative Remedy

If you choose to file a complaint through the Rent Control Board, there are limitations which apply to the Board's procedure which may not apply in court. These limitations are discussed in Section 8023 of Chapter 8. Briefly, tenants may not proceed if:

- Excess rent was demanded, but no payment of excess rent was made;
- Full refund of excess was received prior to any Board action;
- There was a fully performed settlement agreement;
- None of the excess rent was paid in the last three years. (See Section 8023 for limited exception to three-year statute of limitations);
- A lawsuit is pending on the same issues; or
- Excess rent amounts to less than \$100.

Submitting the Complaint for Excess Rent

The complaint and documentation you submit is the sole basis of your claim of excess rent payment. Therefore, it is important to complete the complaint form with great care. It is equally important that all claims of excess rent be supported by documentation. The evidence which you must submit is set forth in the complaint form and Section 8022(b)(1)-(6) of Chapter 8.

In order for the complaint to be filed, it must state a "prima facie" case. A "prima facie" case is a determination, made by staff, that information in the complaint and all the supporting documents which have been submitted, support the claim and amount of excess rent that was paid. Failure to attach documentation or give a satisfactory explanation as to why the documents are not available may result in an administrative dismissal of the complaint.

Complaint Form: Please print or type. Submit original complaint, one copy of complaint and one copy of all documents.

Complaint, Part II (Pages 3 - 5): This chart is provided for you to list each month you believe you have paid more than the maximum allowable rent for that month. There is a three-year limit for most claims of excess rent. That means the Board can only consider excess rent paid during the three years prior to filing this complaint. [See Section 8023(e)]

In order for the three-year statute of limitations not to apply, you must prove that your landlord did specific things or took specific actions to fraudulently conceal or fail to disclose important facts, such as the lawful rent level, and that you relied on the landlord's representations. If you are claiming this, you must so identify in Section I, (g) of the complaint and attach all available evidence. These facts are often difficult to prove and you may wish to consult an attorney if you are making such a claim.

Begin completing the chart with the most recent date for which you have evidence that you paid excess rent. Complete this chart carefully, using a new line for each month for which you have evidence of paying excess rent.

Necessary Documentation

The list of documents provided in Section IV of the complaint form is not a complete list. It is a guide and offered as suggested documents which might support your claim. It is crucial to your case to document every aspect of your claim of payment of excess rent and/or reasons why the three-year statute of limitations is not applicable to your claim. A Hearing Examiner will probably refuse to consider documents at the hearing which were not attached to the complaint when it was submitted.

Certification

You must verify that you have read Chapter 8 of the Board's regulations regarding excess rent and, most important, that you understand what is provided to you in these regulations.

If you have any questions regarding this process, please call the Rent Control office and speak to an Information Coordinator.