

# Discovery

## Representing Yourself in an Eviction Case

### How to Get Information to Prepare for Your Trial

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**Discovery** can be an important part of your eviction case. It is a way to get information from your landlord to help you prove your case. When you request Discovery, your landlord must answer questions in writing and provide you documents about your eviction case. **Your landlord must answer your questions in writing under oath.**

During the COVID-19 pandemic, the due dates for providing the court and your landlord (or landlord’s attorney) with the Discovery Requests are not yet clear. If your case is in:

- **Housing Court:** To be on the safe side, you should provide the Discovery Requests at the same time as the Answer (three business days before your “housing specialist status conference” (also called a “first-tier event”)--set by the clerk’s office).
- **District Court:** At the Case Management Conference, the judge will establish deadlines for filing Discovery requests (but you can also file Discovery earlier when you file your Answer). Standing Order 10-20 Questions and Answers, No. 12

# How to Use Discovery

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## Fill Out the Form in This Booklet

Fill in the top of the Discovery form the same way you filled in the top of your **Answer** form in **Booklet 3**. To decide what information will help your case, read over your **Answer**. Ask questions and request documents that will help you prove your side of the story.

As you go through the Discovery form, check the box next to every question that you want answered and every document that you want sent to you. If you have more questions or requests for documents, write them in the blank spaces at the end of the Discovery form.

In this Discovery form, certain standard questions and documents are checked because tenants would want to request these in every case. **Make sure you do not ask more than 30 questions.** There is no limit on the number of document requests.

## Deliver Discovery by Your Answer Date

You must get the Discovery requests to the court and to your landlord (or your landlord's lawyer) **with your Answer on or before the Answer Date (in Housing Court) and by a deadline set by the Judge (in District Court)**. If you mail your Discovery on the Answer Date, it will not get there in time. During COVID-19 you can e-file (in Housing Court) and email to the District Court. Check the Court's website or call the clerk's office for more information. When you are finished completing your Discovery form:

1. Fill in your name and address. Circle whether you are mailing, delivering or emailing these forms.
2. Make two copies of the Discovery form. **Do not include these instructions.**
3. Deliver the original to the court and 1 copy to your landlord or your landlord's lawyer. Keep 1 copy for yourself.

## Make Sure You Get Your Discovery Responses

Your landlord must give you Discovery responses and documents within 10 days from the date the landlord receives your request. If your landlord does not or does not provide information you requested, you can ask the judge to order your landlord to answer Discovery. The last 3 pages of this booklet is a **Compel Discovery** form you can use to ask a judge to postpone the court hearing until the landlord **fulfills your Discovery request**.

## Prepare for Court

When you receive the Discovery responses back, read your landlord's answers and look at all documents carefully. Look for statements or information that back up your case. For example, your landlord may admit that you offered to pay rent, or that she knew about bad conditions in your apartment, or that she did not put your security deposit in a special bank account. Also watch for contradictions in your landlord's story. For example, your landlord may deny knowing about bad conditions, but state that she was in your apartment or hired people to do repairs.

## Use Discovery at Your Trial

At the court hearing, tell the judge or jury if your landlord, in her Discovery responses, admitted facts important to the case. You may also ask the landlord the same questions you asked in Discovery. If the landlord gives a different answer, point out the difference

to the judge or jury. You can also ask the judge to look at documents that support your side of the story, including the landlord's Discovery responses themselves.

## DISCOVERY FORM

*(Please print or type)*

### COMMONWEALTH OF MASSACHUSETTS TRIAL COURT

a. \_\_\_\_\_, ss:  
County

e. \_\_\_\_\_  
Name of Court

f. \_\_\_\_\_  
Docket No. Summary Process

b. Rescheduled Trial Date: To be determined by the Court

c. \_\_\_\_\_  
Plaintiff(s) – Landlord(s)

vs.

d. \_\_\_\_\_  
Defendant(s) – Tenants(s)

### DEFENDANT'S REQUEST FOR DISCOVERY (INTERROGATORIES AND DOCUMENT REQUESTS)

#### Notice to Plaintiff

- A.** Under the COVID-19 standing orders, the Court will notify the parties of the trial date. If a jury trial has been requested and your case is in District Court then a pre-trial conference will be held at which time a jury trial date will usually be assigned.
- B.** You are required by law to answer the interrogatories (questions) checked off below truthfully and fully, under the pains and penalties of perjury. Before each of your answers, you must re-state the interrogatory to which you are responding. Include all information that is available to you and to those who work with and for you. You must also provide any and all requested documents in your possession or that of your agents or employees.
- C.** No later than ten (10) days after you or your attorney receives this Request for Discovery, the court and the defendant must receive your responses to these questions and documents requested. Answers should be mailed or delivered to the defendant's apartment.
- D.** You are also required to supplement and/or amend your responses to this Discovery if after you have responded you learn:
- a. the identity of other persons with information about the questions asked (including expert witnesses you intend to have testify at trial); and/or
  - b. that any of the information you gave in the responses was incorrect when made or is no longer correct.

- E.** If any documents that are responsive to the requests for production of documents checked off below are redacted (crossed out or deleted) or are not produced based on a claim of privilege or on any other grounds, please identify as to each such document or part of such document:
- a.** The nature of the privilege claimed;
  - b.** The factual and legal basis of the claim of privilege or ground for not producing the document;
  - c.** The title of the document;
  - d.** The author of the document;
  - e.** Each person to whom an original or copy of the document was provided; and
  - f.** The subject matter and a description of the material withheld, to the fullest extent possible short of waiving the claimed privilege.

## **DEFINITIONS**

- A.** The terms “you,” “plaintiff,” and “landlord” include the plaintiff named above and any and all other persons or entities with any ownership in the premises, as well as plaintiff’s agents, employees, relatives, attorneys, and anyone acting on their behalf.
- B.** The term “apartment” refers to the house or unit that the tenant occupies, including the exterior and common areas. If the tenant has occupied more than one apartment under an arrangement with the plaintiff, this covers any and all apartments occupied by the tenant.
- C.** The term “tenant” includes the defendant(s) named above and his or her agents, relative(s), attorney(s), and anyone else acting on the tenant’s behalf.
- D.** The term “building” refers to the building, common areas, grounds, and any other apartments at the address where the tenant’s apartment is located.
- E.** The term “document” includes: writings, videotapes, electronic mail or other documents electronically stored and/or transmitted, drawings, graphs, charts, photographs, digital images, recordings, contracts, agreements, correspondence, memoranda, reports, notes, requests, bills, orders, notices, writs, declarations, complaints, answers and other court pleadings, schedules, tabulations, checks, diary entries, telegrams, diagrams, films, newspaper clippings, and other writings and recordings of whatever nature. A draft or non-identical copy is a separate document within the meaning of this term.
- F.** The term “concerning” means referring to, relating to, supporting, describing, reflecting, constituting, or in any other way referencing.
- G.** Unless otherwise specified, the *applicable time period* for these requests is the period of the tenant’s occupancy of the apartment(s), plus one month before such occupancy and one month afterward if the tenant has vacated.

**INTERROGATORIES (Questions)**  
**Be sure to check no more than 30 questions**

**Tenancy**

1.  What is the name, address, telephone number, occupation, and relationship to the tenant's apartment of the person answering these questions?
2.  What is the name and address of each owner of the apartment, and the date s/he bought the building?
3.  Please describe all members of the tenant's household (including the tenant) by name, age, gender, and date of move-in.
4.  Please describe all the terms of the tenancy, including, but not limited to:
  - a. The original rent;
  - b. The day of each month on which rent is due;
  - c. Whether the rental agreement was oral or in writing, and the time period of such an agreement;
  - d. The responsibility of each of the parties for payment of water, heat, hot water, electricity, cooking fuel for the apartment, and for any common area utilities and whether these responsibilities are in writing;
  - e. Any additional terms of the original tenancy; and
  - f. Any changes in the terms of the tenancy (including, but not limited to, changes in rent), including the date(s) of all such changes, whether the changed terms were in writing, and what the changed terms were.

**Landlord's Claims**

5.  State each and every one of your reasons for evicting the tenant, whether or not stated in the complaint. If you claim the tenant, household member, or guest has violated a provision of the lease or rental agreement, please describe each such violation in full and complete detail, including, but not limited to:
  - a. What happened;
  - b. The dates of each such alleged violation;
  - c. When and how you learned of the alleged violation;
  - d. The names and addresses of anyone with knowledge of or information about such alleged violation;
  - e. The substance of the information known to each person; and
  - f. What if anything you did after becoming aware of each alleged violation, including the substance and date(s) of any written or oral communication to the tenant regarding such alleged violation and the tenant's response(s) to such communication(s).
6.  Please state how much rent (including "use and occupancy"), if any, is owed, including the specific months and amounts in which such rent was not paid, and the total amount that you claim is owed.

7.  For each person with knowledge of the facts alleged in the landlord's complaint and/or the tenant's answer/counterclaims, please state:
- His/her name, current (or last known) address and telephone number;
  - The substance of the information known to such person; and
  - The expert training/qualifications of such person, if any.
8.  For each person you intend to call as a witness at trial, please state:
- His/her name, current (or last known) address, and current (or last known) telephone number;
  - An overview of their anticipated testimony; and
  - The expert training/qualifications of such person, if any.
9.  State the type of Notice to Quit (or notice of termination of tenancy), if any, relied on in this action, the method of service, the date of service, the name of the person who received the notice, and the name and address of the person who served the notice. If more than one copy of the notice was served on the tenant, please specify the information for each form of service. If the Notice to Quit was also served on any person or agency other than the tenant, please provide similar information regarding such service.
10.  If the tenant has ever paid or offered to pay any rent owed after receiving the Notice to Quit, please describe the payment or offer, the date of the offer, and your response, if any.
11.  If the tenant has ever offered assistance from any third party or agency to pay the rent, please identify the agency or third party assistance offered by the tenant or anyone on his/her behalf, the substance of the offer, the date on which it was made, and your response.
12.  If you have requested an increase to the rent during the course of the tenancy, please describe any such request in full and complete detail, including, but not limited to:
- To whom the request was made;
  - The amount requested;
  - The basis for such request;
  - The date and manner of the request;
  - The tenant's response, if any.

### **Public and Subsidized Housing**

13.  If the tenant receives a subsidy or lives in a subsidized unit, please state:
- The name of the subsidy program and the administering agency;
  - The full contract rent under the subsidy program;
  - The tenant's portion of the rent; and
  - Any changes to the contract rent and/or the tenant's portion since the tenancy started, but not exceeding six years from when the action was commenced.
14.  If you have requested an increase to the contract rent during the past twelve months, please describe any such request in full and complete detail, including, but not limited to:
- To whom the request was made;
  - The amount requested;
  - The basis for such request;
  - The date and manner of the request;
  - The agency's response, if any; and
  - The tenant's response, if any.

15.  Please describe the steps you took to terminate the tenancy as required by the lease or program rules, including, but not limited to, an offer of an informal conference and/or grievance hearing. If the tenant requested a conference and/or hearing, for each such conference and/or hearing, state the date, who was present, what each person said, and the results of the conference/hearing.

### **Problems with the Apartment/Building**

16.  Please describe in full and complete detail how you came to know of each and every need for repair or other problem in the tenant's apartment and/or common areas of the building at any point during the tenant's tenancy. (This includes both alleged and confirmed problems, including, but not limited to, each of the problems alleged in the tenant's answer and counterclaims.) For each such problem or condition, please state:
- a. The nature of the problem;
  - b. The date you first became aware of such problem;
  - c. How you first became aware of such problem—that is, who, if anyone, informed you and how (orally or in writing); and
  - d. What steps, if any, you took in response to being notified of such problem, including whether your investigation confirmed that there was a need for repair.
17.  Please describe in detail any inspections of the apartment or building conducted by the Board of Health, Inspectional Services Department, Housing Authority or other agency, during the term of the tenant's tenancy, including, but not limited to:
- a. The date of the inspection;
  - b. The identity of the agency conducting the inspection;
  - c. The identity of the person who contacted the agency to perform the inspection and the date of the contact;
  - d. The date you received a report from the agency;
  - e. The substance of the report;
  - f. The date and substance of any communications with the inspector or other representatives of the agency; and
  - g. What, if anything, you did in response to the inspection.
18.  If the landlord before, at the time of, or immediately following the purchase or acquisition of the apartment or building, obtained any inspections, assessments or evaluations of the apartment and/or building, for *each such inspection, assessment or evaluation* state:
- a. The date;
  - b. The name, address, and telephone number of the person or agency who/that performed it;
  - c. When you received or became aware of the inspection, assessment or evaluation;
  - d. The contents thereof, stating specifically what problems or conditions were noted; and
  - e. What, if anything, you did in response to such inspection, assessment, or evaluation.

19.  If the landlord has made or attempted to make inspections and/or repairs (including exterminations) to the tenant's apartment and/or common areas and systems of the building, for each such inspection and/or repair (or attempt), including extermination, please state:
- a. A description of each inspection and/or repair;
  - b. How and when you let the tenant know of your plan to inspect and/or to repair (including whether there was written notice to the tenant);
  - c. The date of each inspection and/or repair;
  - d. The name, address, and telephone number of the company/person who made each inspection and/or repair; and
  - e. The cost of each repair, if applicable.
  - f. For repairs, how and when you first knew of the condition that needed to be repaired.
20.  If you have ever learned of or tried to discover whether there is lead paint in the tenant's apartment and/or building, please provide:
- a. A full and complete description of your investigation and/or knowledge/information regarding the presence (or absence) of lead paint in the apartment and/or building, including, but not limited to:
    - i. The substance of any inspections, investigation or knowledge/information;
    - ii. The name, address, and telephone number of any person/company with information;
    - iii. The date(s) that you conducted such investigation or otherwise acquired such knowledge/information;
  - b. A full and complete description of any steps you have taken regarding the presence of lead paint in the apartment and/or building (i.e., any and all inspections not identified above and/or abatement of any lead paint hazard), including, but not limited to:
    - i. The substance of all action taken or work performed;
    - ii. The date(s) thereof;
    - iii. Who did what work (name, address, company, telephone number, and license number of the deleader);
    - iv. The details of any arrangements for relocation of the tenant during the abatement process (including where the tenant was relocated, how the tenant was relocated, and the payment of any costs associated with such relocation).
21.  If you claim that the tenant caused any damage to the apartment and/or building, please describe such damage in full and complete detail, including, but not limited to:
- a. The substance of such damage;
  - b. Why you believe the tenant caused the damage;
  - c. What if any repairs were made to such damage, the date(s) of such repairs, and the costs of such repairs;
  - d. The name(s), address(es), and telephone number(s) of anyone with knowledge of such damage allegedly caused by the tenant.



22.  If you claim the tenant prevented or hindered you from inspecting the apartment and/or making repairs, for each attempt to inspect or make repairs, please describe:
- a. The date of the attempt;
  - b. How and when you let the tenant know of your plan to inspect and/or to repair;
  - c. What the tenant did or said to prevent or hinder the inspection or repair;
  - d. The names and addresses of anyone present at the time who has information about the tenant's interference with the inspection or repair; and
  - e. Any financial or other loss suffered as a result of the tenant's actions or inactions.
23.  If you or anyone on your behalf has been inside the tenant's apartment during the tenancy (or before the tenancy for the purpose of renting to/preparing the apartment for the tenant), please state who was inside the apartment, when, and why s/he was there.
24.  Please describe in full and complete detail the maintenance and management of the apartment and/or building during the tenancy, including, but not limited to, the name of the management company, the identity (by name and address) of each responsible person, a description of each such person's duties, for how long s/he has managed and/or maintained the building, and his or her job training/experience/qualifications.

### **Security Deposit and Last Month's Rent**

25.  If you ever received payment(s) for a security deposit and/or last month's rent from or on behalf of the tenant, or know that the tenant made such payment(s) to a former owner, please state:
- a. The amount of each payment and whether it was a security deposit or last month's rent;
  - b. The date each payment was received;
  - c. Whether you gave the tenant a receipt and what information was on the receipt;
  - d. Whether you asked the tenant to sign a statement about the condition of the apartment;
  - e. The amount, account title and number(s), the name(s) and address(es) of any bank(s) in which the security deposit and/or last month's rent has been kept, in whose social security or tax identification number the funds are held, and the date(s) of the initial deposit in a bank and of any transfer;
  - f. Whether the security deposit has at all times been kept in a separate escrow account protected from creditors, and the facts on which you base your response;
  - g. Whether you have paid the tenant interest on the security deposit and/or last month's rent or credited the interest to the tenant's account and, if so, when and how much; and
  - h. A full and complete description of any notice(s) you provided to the tenant about the deposit(s) and/or payment(s) made to a former owner, including the date(s) of such notice(s).

### **Utilities**

26.  If there is or was a written agreement requiring the tenant to pay for water, heat, hot water and/or electricity, please describe the substance of the agreement, the date of the agreement, and the date the obligation to pay for any such utility took effect (specifying each utility).

27.  If any of the tenant's utilities (water, gas or electricity) have ever been shut off, discontinued or threatened to be shut off/discontinued (by you, a utility company, or anyone else), state which utility and when, the reason for the shutoff or notice/threat of shutoff, and when the utility was turned back on.
28.  Please describe any accounts that the landlord has or has had for common area utility usage (including water and sewer) in the building, including the date such account was established, the name of the utility company, the account number for each such account, and a description of the areas in the building covered by each such account.
29.  If the tenant is or was at any time responsible for paying for any water, electricity or other utility outside the apartment, including, but not limited to, hallways, basement, and/or the exterior of the building, please describe what the tenant is responsible for, whether there is a written agreement between the parties reflecting this arrangement, and the date such arrangement first took effect.

### Facts About the Landlord

30.  Please list all property, including the property involved in this case, that you own or have owned at any point during the tenant's tenancy in the apartment (including any property owned by trust or business entities with which you are associated) and *for each such property*:
- Identify the address;
  - State the number of apartments in each such property; and
  - State the purchase date and dates of ownership.
31.  If you are a trust, please describe the trust in detail, including, but not limited to:
- The name and type of the trust;
  - The names of the trustees, and any changes thereto (including all applicable dates);
  - The names of the beneficiaries of the trust, and any changes thereto (including all applicable dates).

### Disability

32.  Please describe in full detail your knowledge, belief, and/or information, at any time through and including the date of your interrogatory responses, that the Tenant or a household member has a mental and/or physical disability of any kind, including but not limited to the substance of, and the factual basis for, such knowledge, information and/or belief (including, for example, reports, observations, and communication with others).
33.  Please describe in detail any requests made by or on behalf of the tenant or household member for an accommodation or accommodation otherwise considered (e.g., a change in rules or policy, a physical change to the apartment, not proceeding with an eviction, or other special treatment) due to her/his disability, including, but not limited to:
- When and how the tenant or other person asked you for an accommodation or an accommodation was otherwise considered (in relation to the Tenant's Answer or by other means);
  - What s/he requested that you do or not do on account of her/his disability or that you otherwise considered; and
  - Your response (and/or conclusion).

34.  With respect to any disability-related request(s) for accommodation made by or on behalf of the Tenant (or household member), please describe in full factual detail the date and substance of such request(s) and the date and substance of your response(s).
35.  If you assert that the requested accommodation or any other accommodation that would permit the Tenant and/or household member to continue occupying the Apartment would be unreasonable and/or would constitute an undue financial or administrative burden, please describe the reasons for such assertion(s) in full, factual detail.

### **CARES Act and CDC Moratorium Order**

36.  If you receive any government assistance (including but not limited to low-interest loans, rental or mortgage subsidies, HOME, and/or tax credits) for any of the apartments in the building or development where the apartment is located, please state the name of the government assistance program and the addresses covered by said program.
37.  Please state whether there is any tenant in the building with a tenant-based Section 8 voucher (a) at the present time and (b) at any time since March 27, 2020.
38.  If the building is subject to a mortgage, please state whether it is a federally-backed mortgage and whether you have obtained forbearance on your mortgage, and if so, for what time period.
39.  If the Tenant or household member provided you with a signed Declaration or any other document related to the Centers for Disease Control and Prevention (CDC) Order relating to the Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19, please state the date received and manner you received it.

### **Other**

40.  If you knew or believed that the tenant went to a tenants' meeting or participated in a tenants' organization, or if you received any correspondence or communication from the tenant identifying herself/himself as part of a tenant organization, or filed or threatened to file a lawsuit or claim against you, describe such actions and state when and how you became aware of this.
41.  If the tenant or any agency or person asked you to accept a subsidy or other financial assistance for the tenancy (for example, Section 8) or to fill out any forms related to such assistance for a housing authority or other agency, please describe such request in detail, including, but not limited to:
- a. What you were asked to do;
  - b. When;
  - c. How (orally or in writing) the request was made;
  - d. Your response (including the factual basis for any refusal to accept assistance).
42.  For each conversation you have had with the tenant about the reason(s) for eviction or that concerns your claims and/or the tenant's defenses or counterclaims in this action, please state when, who was present, and what was said.

43.  Please state your opinion, if any, of the fair market monthly *rental* value of the apartment (i.e., for how much you could rent the apartment in good condition) for each year of the tenant's occupancy, and describe in detail the basis for your opinion.
44.  If the building or the tenant's apartment has been converted to the condominium or cooperative form of ownership, or if there is an intent to do so, please state:
- a. When the conversion took place or will take place; and
  - b. The substance and date(s) of information or notices, if any, provided the tenant by the landlord or any other person or entity regarding any rights the tenant may have under applicable condominium conversion eviction laws.

45.  \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

46.  \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **DOCUMENT REQUESTS**

**Check as many boxes as apply**

### **Tenancy and Termination**

1.  Any documents related to the rental of the apartment and/or to the tenancy, including, but not limited to, rental applications, credit checks, references, lease(s) or other written agreement(s) between the landlord and the tenant, and lease addenda, changes, or renewals.
2.  All documents related to the composition of the tenant's household (i.e., the identity of all people who occupy or who have lived at any time in the apartment).
3.  All letters and other written communications between the landlord and the tenant.
4.  All written records kept by the landlord concerning payments for rent/use and occupancy made by or on behalf of the tenant.
5.  All written records kept by the landlord concerning payments for charges other than rent/use and occupancy made by or on behalf of the tenant.
6.  All documents received from any predecessor(s) in interest (people or business(es) that owned the building before you did) related to the building, including, but not limited to, documents about:
  - a. The condition of the building;
  - b. Tenancies at the building;
  - c. Assignments of rights/obligations; and
  - d. A security deposit and/or last month's rent for the tenant's apartment.
7.  All documents concerning the landlord's purchase, refinancing, mortgage, sale, marketing, and/or insurance of the apartment/building, including, but not limited to, inspection reports and other assessments/evaluations, purchase and sale agreements (and other documents concerning conditions of purchase/sale), broker or other marketing agreements, and the like.
8.  All Notices to Quit ever served by the landlord on the tenant or on an agency providing a subsidy for the tenant and returns of service for each such notice.
9.  All documents related to any complaints received from any source about the tenant and/or members of the tenant's household or guests.
10.  All documents concerning charitable or third party payments on behalf of the tenant, including, but not limited to, fuel/weatherization, rent and/or other assistance.
11.  All documents concerning the Department of Transitional Assistance (DTA), including, but not limited to:
  - a. Rental arrearage payments;
  - b. "Vendor" rental payments by the tenant through DTA; or
  - c. Other assistance concerning the tenant (e.g., applications, agreements, invoices, checks, or other documents).
12.  All documents related in any way to any of your reasons for evicting the tenant.

- 13.  All documents related in any way to the landlord's claims and/or to the tenant's defenses or counterclaims (to the extent not addressed elsewhere in your responses to these document requests).
- 14.  All documents you plan to present at trial.

### **Public and Subsidized Housing/Governmental Assistance**

- 15.  All written documents concerning the exact type or nature of any rental subsidy attached to the building or involved in the tenancy.
- 16.  All documents related to requests that you accept a subsidy, rental arrears or other financial assistance for the tenant's rent or the tenancy **and** your response, if any.
- 17.  All documents concerning determination of the tenant's rent, determination of the contract rent, and/or recertification of the tenant household.
- 18.  All documents in any tenant file that the owner or manager maintains for the tenant.
- 19.  All documents concerning any request you have made for an increase in the contract rent and responses to that request from the tenant and/or agency administering the tenant's subsidy.
- 20.  All documents related to any informal conference and/or grievance hearings during the tenancy.
- 21.  All letters and other written communications between the landlord and any housing authority, DHCD, MassHousing, HUD, and any other relevant agency regarding the tenant or the apartment.
- 22.  All documents concerning conditions or use restrictions for the apartment and/or building related to your (or your predecessor's) receipt of any form of government assistance, including, but not limited to, low-interest loans, subsidies, tax credits, deleading and/or rehabilitation assistance, and the like.

### **Problems with the Apartment/Building**

- 23.  All documents notifying the tenant of inspections and/or repairs to the apartment or building.
- 24.  All photographs, videos, and/or digital images of the tenant's apartment or of the building at any time during the tenancy, or within 2 weeks before the tenant moved in.
- 25.  All documents related to investigation for or the presence of lead paint at any time in the tenant's apartment and/or in the building, including, but not limited to, notices to any tenants in the building, notices from any agency about lead paint, and documents related to lead paint inspections, verifications of lead paint abatement and/or control of lead paint, and tenant relocation.
- 26.  All documents concerning conditions in the tenant's apartment and/or in the common areas or systems of the building, including complaints, inspection reports and requests for repairs by the tenant or any other person or agency.
- 27.  All documents relating to repairs of the apartment and/or common areas or systems of the building, including, but not limited to, invoices, estimates, bills, work orders, receipts and records of payment.

28.  All documents related to the basis of the landlord's opinion regarding the fair market monthly *rental* value of the apartment.

### Other

29.  All documents concerning the tenant's security deposit and/or last month's rent, including, but not limited to, receipts, bank records or statements, documents reflecting whether any security deposit is/has been protected from creditors, notices given to the tenant about the deposit/payment, conditions statement, and documents relating to payment and/or crediting of interest to the tenant.
30.  All documents concerning who is or was at any time during the tenant's occupancy responsible for payment of water and sewer, heat, hot water, electricity and/or other utilities in the apartment.
31.  Any documents concerning the threatened or actual termination and/or re-connection of utilities (including water and sewer, electricity, and/or gas) in the apartment and/or building.
32.  Any documents concerning accounts that the landlord has or has had for common area water and other utility usage in the building.
33.  Any documents concerning tenant responsibility for payment of any water, electricity, or other utility outside the apartment, including, but not limited to, hallways, basement, and/or exterior of the building at any time during occupancy.
34.  Any documents concerning the tenant's or household member's disability and/or request for accommodation (i.e., a change in rules or policy, a physical change in the apartment and/or common areas, etc.) that the tenant or anyone on his/her behalf has made to you **and** your response to such request, and any offers of reasonable accommodation that you otherwise have made to the tenant or household member.
35.  Any and all documents substantiating or concerning whether any request(s) for accommodation(s) made by or on behalf of the tenant or household member would constitute an undue financial or administrative burden on the landlord.
36.  Any and all documents substantiating or concerning whether any request(s) for accommodation(s) made by or on behalf of the Tenant would be otherwise unreasonable.
37.  All documents regarding any policy of the landlord regarding persons with disabilities including any reasonable accommodation plans or policies, all attachments and/or appendices, and any forms or releases that are used in connection with any such policies.
38.  Any documents related to your language access policy for Limited English Proficiency tenants.
39.  Any documents concerning any incident(s) of domestic violence against the tenant or a household member at in the apartment including but not limited to police reports, restraining orders, requests for lock changes for safety reasons and/or and early lease termination of the tenancy agreement.
40.  Any documents related in any way to the tenant's claim of sexual harassment.
41.  Any and all documents concerning behavior on the part of the tenant or household member during the time period of his/her occupancy of the Apartment that you consider a lease or tenancy violation not previously provided in response to other requests.

- 42.  Any documents concerning actual or proposed condominium or cooperative conversion of the apartment or building.
- 43.  Any documents concerning fire, property and/or liability insurance of the apartment/building, including, but not limited to, policies, binders, contracts, agreements, vouchers, checks, notices, correspondence, and notices to your insurer of claims concerning the apartment and/or building.
- 44.  Any documents concerning the management of the apartment and/or building (including management contract(s) applicable to the time period of the tenant’s occupancy and any other management documents concerning the tenancy).
- 45.  Any documents concerning the maintenance of the apartment and/or building in relation to the tenancy.
- 46.  Any documents concerning lawsuits or claims related to the apartment and/or building and/or involving the landlord and the tenant.
- 47.  Any documents or declaration(s) you received from the tenant relating to the CDC moratorium order dated September 4, 2020 (“Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19”) and any documents you provided in response to those documents.
- 48.  All documents relating to the type and status of the mortgage on the building including but not limited to whether it is a federally-backed mortgage and any mortgage forbearance obtained in 2020.

49.  \_\_\_\_\_  
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50.  \_\_\_\_\_  
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I hereby certify that I [caused to be] delivered or mailed or emailed (*circle which one*) a copy of this Discovery request to my landlord [who consented to service by email] or to his/her lawyer on (who is required to accept service by email) on \_\_\_\_\_(date).

\_\_\_\_\_  
 Signature of Tenant

\_\_\_\_\_  
 Signature of Tenant

\_\_\_\_\_  
 Tenant’s Name (*print*)

\_\_\_\_\_  
 Tenant’s Name (*print*)



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Address

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City

State

Zip

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Telephone Number

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Email (if any)

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Address

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City

State

Zip

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Telephone Number

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Email (if any)

# Compelling Discovery

## What can you do if your landlord does not answer your Request for Discovery?

Your landlord must give you his/her responses to your Discovery within **10 days** after receiving it.

**If your landlord does not answer your Request for Discovery, or gives you incomplete answers or objects to your request, you may file a Motion to Compel Discovery.**

In a Motion to Compel, you can ask the court to do a number of things, including dismiss the case, prohibit the landlord from opposing your claims, order the landlord to provide complete answers, and *continue* (or postpone) the trial until the landlord does so. You must file this Motion in court **within 5 business days** after the date Discovery responses were due.

If your case is in Housing Court and you do not think that the landlord's responses to Discovery were complete or responsive, you may have to provide the Court with more detailed information. Ask the Court Clerk if there are any special requirements.

This motion, which you must file in court **within 5 business days** after the date Discovery responses were due, asks the judge to order the landlord to completely answer Discovery and to continue (or postpone) the trial until the landlord does so.

**To figure out when to file and serve this document if your landlord fails to give you discovery responses, fill in the following dates:**

1. Date your landlord got your discovery requests: \_\_\_\_\_
2. Date that is **10 calendar** days after your landlord got your discovery requests which is your landlord's deadline to respond: \_\_\_\_\_
3. Date that is **5 business** days after your landlord's deadline to response. This is the date that is your deadline to file the Motion to Compel Discovery: \_\_\_\_\_

## How to Make the Motion to Compel Discovery

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- Fill in the spaces at the top of the motion the same as you did in the Answer and Request for Discovery forms.
- Write in the date you mailed or delivered your Discovery to the landlord or the landlord's lawyer.
- Check the box(es) that describe what your landlord failed to do.
- On the bottom of the form, circle whether you delivered or mailed a copy of this motion to your landlord (or the landlord's lawyer). Fill in the date, your name, address, and telephone number. Sign the motion.
- Make 2 copies. Deliver the original to court, and 1 copy to your landlord (or his/her lawyer). Keep 1 copy for yourself.

**IMPORTANT:** You **must** get the form to the court and your landlord (or the landlord's lawyer) within 5 business days of the date the answers to your Discovery were due.

### Prepare for Court

The Court will notify you of the (virtual) hearing on your Motion to Compel Discovery.

When your case is called, be sure to tell the clerk that you have filed a Motion to Compel Discovery. When you go before the judge, **tell the judge that you requested Discovery**, and that your landlord **did not answer** (or did not answer fully). Tell the judge why you need the information.

You can ask the judge to do a number of things, including dismiss the case, enter judgment in your favor, prohibit the landlord from opposing your claims, or require the landlord to provide full answers and reschedule the eviction trial until after the landlord does. The judge will make the decision.

**If you win this motion**, your landlord will be ordered to answer your Discovery and the eviction trial should be postponed.

**If you lose this motion**, you should be notified of a new date for the eviction trial. If you lose at trial, you may have the right to appeal, and/or to ask the judge for more time to move. See **Booklet 7: Appeals** and **Booklet 8: Stay**.

