

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



#11: SPIEGEL LAW

Defense # 11 says: "The Respondent receives Public Assistance and there are Housing Code violations in the apartment or building." This defense is called "Spiegel Law."

The "Spiegel Law" says that if there are conditions dangerous to life, health and safety exist in your apartment or building, the Department of Social Services ("DSS") has the power to stop your shelter allowance rent payments to the landlord or owner for you. If this happens, the Spiegel Law is a complete defense to a nonpayment case. This means if the Judge says that you proved this defense, the landlord can't evict you or get unpaid rent for the time that hazardous housing code violations found by the Department of Housing Preservation and Development ("DHPD") were in your apartment or building. This is a hard defense to prove and you should speak to a lawyer to help you.

In order to prove this defense, you must show:

1. That you receive public assistance. Public assistance, DSS, HRA, and welfare all from the same city agency that gives funds for people in financial need. In order to use the Spiegel Law defense, you must be on public assistance with "shelter payments" listed on your public assistance budget. These shelter payments are called shelter allowance. A shelter allowance is the amount of money that DSS sends directly to the landlord or owner for the tenant on welfare. You can go to your local DSS office and ask for a printout of your budget that will show you how much rent is sent, where it is sent, if the landlord is cashing the rent checks, and if DSS has stopped sending the rent payments.
2. That you live in a building that has one or more housing code

violations that are hazardous to life or health. Housing code violations are found by DHPD. DHPD sends qualified inspectors to apartments to see if there are violations of the New York City Housing Code. If there are violations, then the DHPD inspector describes the condition and how serious the violations are. You can see these reports at the Department of Housing Preservation and Development ("DHPD") website (computer). If you have access to a computer go to <http://www.nyc.gov/html/hpd/html/pr/violation.shtml> and click "Proceed to HPD Online" at the bottom of the page. At HPD Online, write the borough, house number and street number. You can then click on "All Open Violations" to see the violations.

3. That DHPD notified DSS about the hazardous conditions in your apartment or building. Go to your DSS center and ask one of their representatives about your case. You need to ask a DSS worker to look up your case in the computer to find out the reason your shelter payments were stopped. For more information you can call the DSS Infoline at (877) HRA-8411.
4. That DSS stopped payments of rent to the landlord or owner because the DHPD told them about the hazardous housing code violations. This is hard to prove in court unless someone from DSS comes to court to testify to this. You may have to "subpoena" (make them come to court) someone from DHPD and DSS.

If you do not prove that DSS stopped paying your shelter allowance because of violations reported by DHPD, then you can't prove the Spiegel Law defense. This is a hard defense to prove. If you get public assistance, you should qualify for free legal assistance from Legal Services or Legal Aid. Speak to a lawyer or visit the Housing Court's Resource Center for help.