



TENANTS TOGETHER
California's Statewide Organization
for Renters' Rights
www.tenantstogether.org

Frequently Asked Questions (FAQs) for Tenants After the 2014 South Napa Earthquake
To aid tenants who have been affected by the 2014 South Napa Earthquake.

Q. 1: What does it mean if my apartment building was red, yellow, or green tagged*?

A. 1: In the event of a natural disaster such as an earthquake, City Inspectors will perform an initial survey of properties throughout the City to assess the extent of damage. A green tag means that either the building has not been affected or has slight damage. The building is structurally safe to enter. According to the City of Napa's website, a yellow tag means "cautionary." Each tag will be unit specific and will indicate which part(s) of the unit should be avoided and whether there are any other restrictions on use of the unit. For example, a yellow tag that reads "remain clear of exterior chimney area" means you can continue to access the unit but should not go near the fireplace for the time being. A red tag means the building structure has been seriously damaged and is not safe to enter. At a later stage, the City will conduct an additional survey of properties with the help of structural engineers to determine what repairs need to be made and whether some red tags may be changed to yellow tags.

*Tag colors may vary depending on where you live. Some cities may only issue red tags and will not issue yellow or green tags.

Q. 2: I was displaced by the earthquake – am I entitled to relocation benefits?

A. 2: Although the California Health & Safety Code provides that landlords are generally responsible for providing relocation benefits when a building becomes red tagged, landlords are exempt from providing benefits in the event of a natural disaster. (Health & Safety Code § 17975.4). This means that your landlord is not obligated to provide you with relocation benefits because of the earthquake. While most municipalities do not have specific relocation acts, the state of California permits them to provide additional relief to displaced tenants in the event of an emergency. Currently, Napa does not offer relocation benefits. However, you may be able to obtain other forms of relief through one of the resources provided below in A.3.

Additionally, if you have renters insurance, you may be able to recover for some of your damage. However, many insurance providers affirmatively exclude natural disasters from policy coverage. Please contact your renters insurance provider directly or look at your policy to determine whether you are able to recover for damage.

Q. 3: Since I am not entitled to relocation benefits, are there any other resources available to me?

A. 3: Below are some resources available depending on your needs:

- Bay Area Legal Aid Hotline: **(707) 320-6348**; open M + Th 9:30-3:00; Tu + W 9:30-1:00
- Tenants Together Tenants Rights Hotline: **(888) 495-8020**

- General info provided by the City of Napa: <http://bit.ly/1uKdmy0> or <http://www.cityofnapa.org/> or call Napa Quake Info at **(707) 25807829**.
- Napa County Season of Sharing Grants for Individuals and Families in Need; contact **(707) 299-1890** or seasonofsharing@countyofnapa.org for more information
- Napa Valley Community Disaster Relief Fund; <http://napavalleycf.org/helping-quake-victims/> or call **(707) 254-9565**.
- The Red Cross may be able to help you come up with a plan for getting back on your feet; contact **(855) 891-7325** or visit <http://www.redcross.org/ca/napa/disaster-preparedness-response/local-disaster-response>
- The California Emergency Management Agency; www.calema.ca.gov or **(916) 845-8510**.

Q. 4: My building was red tagged. Can I reenter the building to get my belongings?

A. 4: Whether you may reenter the building to get your belongings will depend on the extent of damage done to the building. Contact your local Building Department or City Inspector to find out if and when you may reenter the building. For Napa residents, contact the Napa Building Division at (707) 257-1063. Please do not enter the building without first speaking to the appropriate officer.

Q. 5: My landlord says that my lease is terminated because my unit was red tagged due to the earthquake. Is this correct?

A.5: A red tag does not mean that the lease is automatically terminated. Whether your lease is terminated will depend on the extent of damage done to the building. For instance, if the unit was completely destroyed then the lease is terminated and you do not have to pay rent. This is because the subject of the agreement between you and your landlord, the apartment, no longer exists so he or she is no longer able to rent it to you. (Cal. Civ. Code §1933). However, if the unit was damaged but not destroyed then your lease is not terminated because the landlord will be able to rent the unit to you once it has been repaired. (*Erlach v. Sierra Asset Servicing, LLC*, 226 Cal. App. 4th 1281 (2014)).

Q. 6: Do I still need to pay rent if my unit has been tagged?

A. 6: Whether you need to pay rent will depend on the extent of the damage, as well as what you decide to do. Below are options for different scenarios:

- *a. The building is red tagged and the unit was completely destroyed:* As discussed in A.5 above, if the unit is completely destroyed your lease will terminate. Once the lease terminates, the landlord cannot demand or collect rent from you and you no longer have the right to live there.
- *b. The building is red tagged but the unit was not completely destroyed:* If the unit is currently unsafe to enter but has not been completely destroyed, your lease is not terminated (See A.5 above). However, your landlord cannot demand or collect rent from you while you are unable to use the unit. Your landlord is not obligated to provide you with alternative housing in the event of an earthquake. However, if he or she offers you

alternative housing and you accept, you have a new agreement with your landlord and your landlord may ask you to pay rent, even if your original apartment is uninhabitable. We recommend you put any new agreements into writing so it is clear what alternative housing you are renting and how much rent you will owe.

- *c. The apartment is partially damaged but I would like to continue living there:* If the apartment is partially damaged but the City Inspector declares the unit to be safe for habitation, you have the right to continue occupying the unit according to the terms of your lease. Additionally, while you will need to pay rent to your landlord, the amount you owe should be pro-rated based on the proper value of the property. We recommend you discuss the pro-rated amount with your landlord and put any agreements into writing.

Q. 7: My landlord issued a notice of a rent increase because of repairs he needs to make due to the earthquake. Is this legal?

A. 7: The landlord cannot increase your rent during your lease term simply because an earthquake has occurred. For month to month tenancies, your landlord must give you at least 30 days' advance notice if the rent increase is 10 percent or less, and 60 days' advance notice if the rent increase is greater than 10 percent. (Cal. Civ. Code § 827(b)). Furthermore, a rent increase that follows your request for repairs may be retaliatory and therefore prohibited. See Civil Code Section 1942.2

Under section 1942.4 of the California Civil Code, a landlord may not demand or collect rent, raise your rent, or evict you for failure to pay rent when a unit has been deemed unsafe and the landlord fails to take appropriate action. Once a building is red or yellow tagged and the landlord is notified, or the landlord has otherwise been ordered to make repairs, the landlord is supposed to either make the repairs or provide good cause for delay within 35 days. If he or she fails to act within 35 days, he or she cannot raise the rent.

Q. 8: I am still able to safely live in my apartment but my landlord refuses to make necessary repairs. What rights do I have?

A. 8: You are entitled to live in a dwelling in a condition reasonably suited for occupation regardless of whether there has been a national disaster. Under Section 1941 of the California Civil Code, landlords are obligated to provide gas, heat, electric, plumbing, hot and cold water, water and sewer garbage facilities, and to maintain general cleanliness, safety, waterproofing, and weather protection of the premises.

The landlord must make repairs within a "reasonable" time. What constitutes a "reasonable" time will depend on the circumstances, as well as on the nature of the repair. For example, a burst water pipe or broken toilet should be repaired more quickly than other minor repairs. Additionally, how quickly a landlord is able to make repairs will depend on whether he or she has earthquake insurance, whether he or she is able to obtain a loan,

and/or whether he or she is entitled to federal or local funding for repairs. However, availability of funds does not change the landlord's obligations to make repairs.

If your landlord either completely refuses to make repairs or fails to make repairs within a reasonable amount of time, you are entitled to file a complaint with Code Enforcement or make repairs and sue for reimbursement, usually in small claims court. In certain circumstances, you may be able to make repairs and deduct expenses from your rent or withhold a portion of your rent payment until the repairs are made. However, the repair & deduct and withholding remedies require that you follow specific procedures so we suggest you contact an attorney or legal aid organization before using them.

Q. 9: Can the landlord take money for earthquake damage repairs out of my security deposit?

A. 9: No, the landlord cannot apply your security deposit towards repairs for earthquake damage. Pursuant to section 1950.5 of the California Civil Code, the landlord may only use security deposit funds for deficiencies in rent payments, repairs of damages to the premises, excluding ordinary wear and tear, tenancy caused by the tenant, and to return the unit to the same level of cleanliness it was in at the start of the tenancy.

Q. 10: My landlord plans to make repairs to my apartment. Can he or she enter my home without permission or providing notice?

A. 10: Prior to entering, the landlord must give you twenty-four hour written notice, which shall include the date, approximate time, and purpose of entry. (Cal. Civ. Code § 1954). Under certain circumstances, such as in case of emergency or where you have abandoned the apartment, the landlord may enter your apartment without providing notice or obtaining permission. If your building was red tagged, your landlord will not need to provide notice or obtain permission because the unsafe nature of the building is considered an emergency. However, he or she would need to provide notice or obtain permission if the building has been yellow tagged and you continue to occupy the unit.

Q. 11: Is my landlord liable for any personal injuries or property damage that occurred during the earthquake?

A. 11: Landlords are generally only liable for harm that they caused. Damage caused by earthquakes and other natural disasters are typically deemed not to be caused by landlords. However, there have been some instances where courts have held landlords liable for failing to properly maintain buildings. If you or your property has been injured or damaged, consult with an attorney about the specifics of your situation to determine how to proceed.