



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

**GUIDANCE FOR TENANTS AND LANDLORDS
AFFECTED BY COLUMBIA GAS EXPLOSIONS**

Below is guidance about the rights and duties of tenants and landlords following the September 13, 2018 gas explosions and the resulting lack of heat and/or hot water. This guidance applies only to those households impacted by the incidents on September 13.

The Attorney General's Office encourages landlords and tenants to discuss the situation and work cooperatively to try to resolve issues. Neither landlords nor tenants should suffer any financial loss. Columbia Gas is responsible for all losses caused by the gas explosions.

Landlords should file claims for rental income with Columbia Gas. Columbia Gas will pay rent to landlords for the period in which the rental property was without heat or hot water, regardless of whether the tenant has been withholding rent. **As a condition of receiving this payment from Columbia Gas, the landlord must promise to refund the tenant** for any rent paid by the tenant while the unit was without heat and/or hot water.

Tenants and landlords should be aware of their rights, duties, and protections under Massachusetts law. Tenants or landlords who are having problems can call **the Attorney General's Merrimack Valley Hotline at 617-573-5370** for help. Affected residents can request temporary alternative housing by calling Columbia Gas at 1-800-590-5571.

TENANTS

- **State law requires heat and hot water.** The State Sanitary Code requires landlords to provide a heating system in good working condition. From September 16 to June 14, the system must be able to heat your home to at least 68° F during the day and 64° F at night. The State Sanitary Code also requires that your home have hot water between 110° F and 130° F.
- **State law allows you to withhold rent if you are without heat or hot water.** Massachusetts law allows tenants to withhold payment of rent due to "material" violations of the State Sanitary Code. Lack of heat or hot water is generally a "material" violation under M.G.L. c. 239, § 8A. Even though these violations were caused by the gas explosions, tenants still have the right to withhold rent. Columbia Gas will reimburse landlords for their rental income for the period during which their rental property was without heat or hot water.
- **Be aware that if you withhold rent, there is a possibility your landlord will try to evict you.** If your landlord tries to evict you for withholding rent, you will be able to raise the defense of uninhabitability. A likely outcome is that the Court would determine that you owe no rent or only a portion of your unpaid rent. If the Court decides you must pay a portion of your unpaid rent and you pay the specified amount, you are entitled to continue your tenancy and stay in your rental home. However, even if you win the case, a record of the case will remain in the public docket system.

November 29, 2018

- **Notify your landlord in writing of problems before withholding your rent.** If you are without heat or hot water due to the Columbia Gas explosions, your landlord should be notified of the problem before you withhold rent. While most landlords are already aware of the lack of gas service, you should still send a letter or email to your landlord explaining the problems at your home, the fact that you are withholding rent, and that your landlord should file a rent claim with Columbia Gas by calling 1-800-590-5571.
- **If you participate in any rental assistance program or receive a subsidy, such as Section 8, contact your Public Housing Agency (PHA) or the organization that administers your program before withholding your rent.** The PHA or other organization may be able to provide additional assistance and advise you on any program rules or requirements concerning housing quality standards or rent withholding. Make sure you follow all program rules and requirements to maintain your eligibility for the rental assistance program.
- **If you withhold rent, you should save it.** It is a good idea to set aside your withheld rent in a bank account, so that you can pay any “back rent” the Court may require. This is often referred to as putting your rent in “escrow.”
- **Report the problems at your home to local authorities to help document the issues.** Before withholding rent, you may also want to contact your local board of health or inspectional services department and ask them to document the problems at your home. This will help formalize and document the dates and facts specific to your situation. The relevant contact information is as follows:

Lawrence Inspectional Services Department
978-620-3130

Andover Board of Health
978-623-8640

North Andover Board of Health
978-688-9540

<http://www.cityoflawrence.com/363/Inspectional-Services>

<http://www.andoverma.gov/170/Board-of-Health>

<https://www.northandoverma.gov/health>

- **Help protect yourself against retaliation by making complaints in writing.** Your landlord cannot evict you, raise the rent, change the terms of your tenancy, or otherwise retaliate against you simply because you made a written complaint about code violations or other housing problems.
- **Consider speaking with an attorney before withholding rent.** Before withholding rent, you may want to speak with a lawyer. If you cannot afford a lawyer, free legal services may be available through Northeast Legal Aid at 50 Island Street, Suite 203A, Lawrence, Massachusetts (978-458-1465). In addition, if your landlord brings a court case against you because you decided to withhold rent, a lawyer can advise you about any defenses or counterclaims you may have to help you stay in your home.
- **Request temporary alternative housing through Columbia Gas.** Columbia Gas is making temporary housing available to residents affected by the disruption of gas service. *To request temporary alternative housing from Columbia Gas, call 1-800-590-5571, select your language, then choose option 3.* You do not need to withhold your rent to obtain temporary alternative housing from Columbia Gas.
- **Ask your landlord to refund any rent you paid while your home was without heat or hot water.** Columbia Gas will pay your landlord for this rent as part of the landlord’s claim with Columbia Gas. A public list of rent claim payments by property address is available at www.columbiagas.com/massachusetts/claims/rental-housing. If your landlord refuses to file a claim with Columbia Gas or fails to refund your rent for the period in which your home was without heat or hot water, please report the issue to Columbia Gas. If this does not resolve the problem, please contact the Attorney General’s Merrimack Valley Hotline at 617-573-5370.
- **Call the Attorney General’s Office for help.** Tenants who are having problems with Columbia Gas or their landlords should call the Attorney General’s Merrimack Valley Hotline at 617-573-5370.

LANDLORDS

- **Your tenant can withhold rent.** Your tenant is not legally obligated to pay rent for a home that lacks heat or hot water, regardless of who caused the underlying problems or whether the tenant remains in the home. The present lack of heat and/or hot water is a “material” violation of the state sanitary code.
- **The Attorney General’s Office views attempts to collect rent for a home affected by this disaster as a violation of state consumer protection law.** Trying to collect rent or threatening eviction for nonpayment of rent on a unit that lacks heat or hot water due to the Columbia Gas explosions will be considered a violation of the state consumer protection act by the Attorney General’s Office.
- **It does not matter that you are not at fault for the disruption in gas service.** You should not demand rent from your tenant simply because these problems “weren’t your fault.” Nor should you threaten to evict your tenant if he/she withholds rent due to such serious code violations. *If you want to collect rent from your tenant, you can only do so if heat and hot water have been restored to your tenant’s home.*
- **If your tenant participates in a rental assistance program or receives a subsidy, such as Section 8, the above guidance concerning rent may not apply.** Contact the Public Housing Agency or the organization that administers the program for further guidance before accepting rent, refusing rent, or starting an eviction action.
- **File a claim with Columbia Gas for your rental income.** Landlords are not expected to take a financial loss due to this disaster. You should make a claim with Columbia Gas for rental income *regardless of whether your tenant paid rent for some or all of the period your property was without gas service.* To make a claim for rental income call Columbia Gas at *1-800-590-5571 or speak to your adjuster about adding rental income to your existing claim.* For more information about making rent claims with Columbia Gas, please visit www.columbiagas.com/massachusetts/claims/rental-housing.
- **Coordinate with Columbia Gas to ensure timely repairs and restoration of heat and hot water.** As a landlord, you will need to authorize any repairs made by Columbia Gas to your property. *You will be required to sign paperwork and to provide physical access to the building.* If your failure to coordinate repairs and/or provide property access results in delays in restoring heat or hot water, you may not be able to recover rent from either Columbia Gas or your tenant for the delay period. As a landlord, it is critical that you remain engaged in the repair and restoration process. *For more information about Columbia Gas’s repair and restoration process, please visit www.columbiagas.com/massachusetts/restoration.*
- **Consult with a lawyer before trying to evict your tenant.** If you are considering taking legal action against your tenant for non-payment of rent (even though he/she may be withholding rent due to the lack of heat and/or hot water), you should consider speaking with a lawyer first.
- **Call the Attorney General’s Office for help with lost rent claims.** Landlords who experience problems making a rent claim with Columbia Gas should call the Attorney General’s Merrimack Valley Hotline at 617-573-5370.
- **Talk to your mortgage servicer.** Landlords who cannot make their mortgage payments due to lost rent or delays in being reimbursed by Columbia Gas should report the problem to their mortgage servicer. If the mortgage servicer is unwilling to work with you, please call the Attorney General’s Merrimack Valley Hotline at 617-573-5370.