

FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#5 Vacancy Leases in Rent Stabilized Apartments

When a person rents a rent stabilized apartment for the first time, the owner and the tenant sign a VACANCY LEASE. This written lease is a contract between the owner and the tenant which states the terms and conditions of the lease, including the length of the lease, and the rights and responsibilities of the tenant and the owner.

The Rent Stabilization Law gives the new tenant (also called the vacancy tenant) the choice of a one- or two-year lease term. The rent the owner may charge for a vacancy lease cannot exceed the last legal regulated rent and the applicable vacancy increases authorized by law. With the lease, a tenant should receive a Rent Stabilization Lease Rider that states how the rent was computed and asserts that any increases comply with the Rent Stabilization Law and Code.

Pursuant to the Rent Act of 2011, effective June 24, 2011, owners can charge and collect no more than one (1) vacancy lease rent increase in a calendar year (January 1st through December 31st). The following vacancy increases are added to one another, and are computed above the prior legal rent, to establish the legal regulated rent for the vacancy lease:

1. A 20 percent vacancy increase for a two-year vacancy lease; or a vacancy increase for a one-year vacancy lease equal to 20 percent minus the difference between the guidelines percentages applicable to two- and one-year renewal leases. (Lease Renewal Guidelines - See Fact Sheets # 26 and # 31).
2. If the owner did not collect a permanent vacancy increase within eight years of the new vacancy lease, in addition to the vacancy increase described in item 1, the owner is entitled to collect a vacancy increase equal to 0.6 percent multiplied by the number of years since the collection of the last permanent increase.
3. If the previous legal rent was less than \$300.00 per month, in addition to the vacancy increases

described in items 1 and 2, the owner is entitled to collect \$100.00 per month.

4. If the previous legal rent was between \$300.00 per month and \$500.00 per month, the owner is entitled to collect a vacancy increase equal to the greater of: a) the combined vacancy increases described in items 1 and 2; or b) \$100.00 per month.
5. The owner is entitled to add to the vacancy increases described in items 1, 2, 3 and 4 the vacancy increase authorized by the Rent Guidelines Board ("RGB").

If the owner makes improvements to the apartment while the apartment is vacant, the owner is also entitled to collect a rent increase equal to either 1/40th or 1/60th of the cost of the improvement. This increase, known as an Individual Apartment Improvement Increase (IAI) is added to the rent, after the vacancy increases described above, are applied.

Pursuant to the Rent Act of 2011, effective September 24, 2011, in buildings that contain more than 35 apartments, the owner can collect a permanent rent increase equal to 1/60th of the cost of the Individual Apartment Improvement (IAI). In buildings that contain 35 apartments or less, the owner can collect a permanent rent increase equal to 1/40th of the cost of the IAI, as had previously been allowed.

Example

Ms. Sanchez lives in a building with 50 apartments and vacates Apartment # 10 in September, 2011. She had lived in the apartment for ten years and when she vacated, her legal rent was \$800.

Ms. Lupino moves into the apartment and signs a two year vacancy lease that starts on October 1, 2011. The owner installed a new refrigerator that cost \$600, including

installation costs, when the apartment was vacant. Ms. Lupino's vacancy lease legal rent of \$1,018, is calculated as follows:

\$800 - previous legal rent
+ \$160 - 20% for a two year vacancy lease
+ \$ 48 - 6% (.6% x 10 years since the last vacancy)
+ \$ 10 - 1/60th of \$600 for the new refrigerator
<hr/>
\$1,018

Effective August 30, 2010, in New York City, pursuant to NYC Housing Maintenance Code Section 27-2018.1 an owner shall furnish to each tenant signing a vacancy lease a notice promulgated by DHCR that sets forth the property's bedbug infestation history for the previous year. DHCR has promulgated a notice - "Notice To Tenant Disclosure Of Bedbug Infestation History" (DBB-N).

For vacancy lease tenants in apartments not subject to rent stabilization, this notice (DBB-N) is to be served on the tenant.

For vacancy lease tenants in rent stabilized apartments, DHCR will require that this notice (DBB-N) is attached to the Rent Stabilization Lease Rider, by owners, and served along with the rider and a copy of the vacancy lease on the new tenant.

A tenant who does not receive a completed Bedbug Infestation History may file a "Tenant's Complaint of Owner's Failure to Disclose Bedbug Infestation History (Form DBB-NO).

If an apartment is vacant or becomes vacant while an application to DHCR for a Major Capital Improvement (MCI) rent increase is pending, the owner must notify any incoming tenant of the basis for the previously filed application, and that the rent will be increased if the MCI application is approved. Failure to include this notice of anticipated rent increase in vacancy leases will result in no MCI increase being approved for this apartment during the term of the vacancy lease. An owner who charges such increases without this notification will be subject to over-charge penalties.

A satisfactory MCI notification clause in a vacancy lease is one which provides, "An application for a major capital improvement rent increase has been filed under Docket No. _____ with DHCR based upon the following work: _____. Should DHCR issue an order granting the rent increase, the rent provided for in this lease will be increased accordingly."

For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough or County Rent Office.

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