



A Division of the New York Legal Assistance Group

LegalHealth
Professional Partnership to Promote Well Being[®]

This is general information, not legal advice. Patients should consult an attorney for specific guidance.

UNDERSTANDING HOUSING INSECURITY AND EVICTION BASICS

Housing insecurity is a predominant social determinant of health because people who have difficulty maintaining stable housing are less likely to have regular medical care and are more likely to postpone treatment and to use the emergency room for treatment. Below is some guidance for patients who tell you they are facing eviction.

- **What does housing insecurity look like?** Patients struggling with any of the following may be housing insecure.
 - Behind in rent
 - Served housing court papers
 - Living with a leaseholder who has died or moved
 - Couch surfing
 - Homeless
 - Served with a Marshalls Notice of Eviction (this is an emergency!)
- **Does a tenant need to leave just because the landlord demands it?** No! In New York City, a tenant (someone with an oral or written lease) or occupant (someone who has lived in the apartment for over 30 days) has a right to assert defenses to an eviction case in housing court.
- **Is there just one type of eviction proceeding?** No, there are two types of eviction cases in housing court.
 - Non-payment of rent
 - Landlord alleges that rent was not paid.
 - The tenant *must* file an answer at the courthouse to receive a court date. A tenant who does not appear/file an answer can receive a *marshal's notice and can be evicted without any court date ever being scheduled*.
 - Possible defenses to assert in an answer: rent demanded is wrong; problems in the apartment that the landlord hasn't repaired; and ability and plan to pay the rent owed.
 - Holdover Petitions
 - A first court date is automatically scheduled.
 - Dispute is over anything except for rent, such as a violation of lease provision; expiration of a lease with no right to renew; nuisance; or succession (a right to take over the apartment from prior tenant of record).
 - Possible defenses can include curing the breach of the lease or establishing succession rights.

More questions? Refer patients for an appointment with a LegalHealth Attorney to discuss their case. Patients should always bring all court papers and rent history information to their LegalHealth appointment.