

JDF 104	Unlivable Conditions Affidavit (Affirmative Defense for Unpaid Rent)	
1. Court ☐ District ☐ County Colorado County: _____ Mailing Address: _____		<i>This box is for court use only.</i>
2. Parties to the Case Landlord: <i>(Plaintiff)</i> _____ v. Tenant: <i>(Defendant)</i> _____		
3. Filed by Name: _____ Mailing Address: _____ City: _____ St: _____ Zip: _____ Phone: _____ Email: _____		4. Case Details Number: _____ Division: _____ Courtroom: _____

5. Background

I submit this affirmative defense under Colorado Revised Statute (C.R.S.) section (§) 38-12-507(1)(c).

- a) Our rental agreement was entered into, extended, or renewed on or after September 1, 2008.
- b) The landlord failed to repair the rental home, making it uninhabitable, which breached the warranty of habitability.

6. Conditions of Life, Health, and Safety

C.R.S. § 38-12-505(4)

The condition of my rental home materially affected my life, health, or safety because of (a/an):
(check all that apply)

- ☐ Lack of weather protection *(including roof and exterior windows and doors)*.
- ☐ Hazardous gas equipment *(including piping, facilities, and appliances)*.
- ☐ Inadequate running (hot) water *(doesn't include temporary disruptions in service)*.
- ☐ Lack of heat *(up to code, well maintained, and functions October through April)*.
- ☐ Lack of electricity *(including failure to maintain wiring, appliances, or facilities)*.
- ☐ Lack of working locks or security devices *(including on all exterior windows that can open)*.
- ☐ Lack of working plumbing *(including sewage disposal)*.

- ☐ Infestation (including rodents, vermin, pests, or insects).
- ☐ Inaccessible fire exits.
- ☐ Improper venting on HVAC systems.
- ☐ Inoperable elevator, and I have a disability that prevents me from using the stairs.

7. Conditions of Habitability

C.R.S. § 38-12-505(1)(b)

My rental home was not habitable, because it (lacked): *(check all that apply – not a complete list)*

- ☐ Wasn't clear of mold from dampness (which materially interferes with my health or safety).
- ☐ Functioning appliances that are maintained in good working order.
- ☐ Reasonably clean and sanitary common areas (that materially affect my home).
- ☐ Appropriate (number of) outdoor trash receptacles in good repair for common areas.
- ☐ Floors, stairways, elevators, and railings in good repair.
- ☐ Compliance with building, housing, and health codes applicable to the property (that materially interfere with my life, health, or safety).
- ☐ Repairs and clean up from an environmental public health event. See C.R.S. §§ 38-12-503(2)(a)(III).
- ☐ Other: _____

8. Notice

I informed my landlord, or their agent, about these conditions, by: *(check at least one)*

- ☐ Written Note or Letter. ☐ Email or E-portal System. ☐ Other: _____

On: *(enter dates)* _____

9. Retaliation

Did the landlord retaliate against you for reporting the unlivable condition(s)? *(yes or no*)* _____

*** If yes, how did they retaliate?**

- ☐ Increasing Rent. ☐ Decreasing Services. ☐ Bringing / Threatening Eviction.
- ☐ Other: _____

10. Costs Deducted from Rent

Did you pay to fix the conditions and deduct that from your rent?

- ☐ No. **[Skip to Section 11]**
- ☐ Yes, I paid: *(check all that apply)*

- ☐ a) A licensed or qualified professional (*not related to me*) to fix the condition.
- ☐ b) To replace a broken or malfunctioning appliance.

I notified the landlord in writing that I intended to pay to fix the condition and take it out of my rent on: (*date notified*) _____

The professional completed work / I bought the appliance on: (*date*) _____

The cost was: \$ _____

I sent the receipt/invoice/proof of payment to the landlord on (*date*) _____

11. Remedies

I would like the court to:

see C.R.S. § 38-12-507(2)(g)

- a) Deny possession of the premises to the landlord. This is conditional on me paying the adjusted rental value within 30 days.
- b) Order the Landlord to fix any uninhabitable conditions within a set time.
- c) Reduce the premise's fair rental value during its uninhabitable state.
- d) Order the Landlord to reimburse any overpayment in rent during the home's uninhabitable state.
- e) Determine and award me any actual damages, costs, and attorney fees.
- f) Determine if any outstanding rent is owed.

12. Certificate of Service

On (*enter service date*) _____

I certify that I sent a copy of this document to the other parties by: (*select one*)

- ☐ Colorado Courts E-Filing. [www.jbits.courts.state.co.us/efiling]
- ☐ Regular Mail, addressed to:
Name & full address: _____
- ☐ Other: (*explain*) _____

13. Verified Signatures

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the (*date*) _____ day of (*month*) _____ (*year*) _____

at City: (*or other location*) _____

and State: (*or country*) _____

Print Your Name(s): _____

Your Signature(s): _____

Lawyer Signature: (*If any*) _____