

# RIGHTS OF TENANTS AFTER A NATURAL DISASTER

September 2018

## What are your rights and responsibilities under North Carolina law if you are a tenant and your rental property is damaged by a natural disaster?



NORTH CAROLINA  
**JUSTICE  
CENTER**

### **A. Read Your Contract**

If you have a written contract, read it carefully to see if it contains any terms about repairs, termination of contract, alternative housing, or other matters in the case of extensive damage or destruction of the dwelling.

### **B. Options if your house or your land is not habitable**

If your house, apartment, or land is so damaged by a natural disaster that it will not be safe to live there, then you have **three options**:

#### **1. Notify the owner that you are going to cancel your contract right away**

a. Under the North Carolina law (NCGS §42-12), a tenant can inform the landlord in writing within 10 days of the disaster that he wants to cancel his contract, if his property is severely damaged. The tenant has to pay all the rent that was due before the disaster.

-or-

#### **2. Cancel the contract if the owner does not fix your house, apartment, or land**

a. Even if you do not cancel your contract within 10 days after the disaster, it is possible that you can still cancel the contract if the owner does not make the necessary repairs. North Carolina law says that an owner has to maintain your rented house, apartment, or land in a "safe and habitable" manner. If the owner is aware of the damage to the property, and does not repair it in a way that puts your property in a "safe and habitable" condition, then the tenant has the right to revoke or cancel the contract. If possible, you should revoke or cancel the contract

in writing. Make sure to **take many photos** and/or video of your apartment or home after the disaster, to demonstrate the condition of your unit and why it was not habitable. If possible, it is also good to take photos of the apartment or house **BEFORE** the disaster, to show the conditions before the disaster struck.

-or-

#### **3. Ask the owner to complete the repairs if you decide to return to the house, apartment, or land**

If the landlord says he will make the necessary repairs, and you want to return to the house, apartment or land, then you should try to negotiate a schedule for the owner to complete the repairs. **NOTE: You are not required to pay the full rent until the house, apartment, or land you rent is in a "safe and habitable" condition.** The tenant does not need to pay the entire rent until the repairs are completed. *(However, the owner may file an eviction case against you if you do not pay the rent. You must document the condition of your home with photos and show it to the court in your defense. You should also document your communications notifying your landlord of the need for repairs.)*

### C. Illegal Eviction

The landlord may not use force or other illegal means to evict a tenant, or to remove personal property. **The landlord needs to get an order from the court before he can evict a tenant or remove his possessions from the property.**

### D. Personal Property

A landlord is generally not responsible for damage to personal property (clothing, furniture, electronics, cars, etc.) due to a natural disaster. A landlord could be liable, however, for damage to a tenant's personal property from a storm if the landlord failed to make pre-storm repairs. (i.e. - leaking roof) and it caused the damage to the tenant's property. Again, make sure to document the condition of your home both before and after the natural disaster.

### E. Insurance Policy

If you have a renters' insurance policy, you should read your policy, take pictures of the damages, and call your insurance company as soon as possible, and follow their procedures to file a claim.

### F. Important Documents

Make sure to keep your rental contract, renters' insurance documents, and other important papers in a safe place during the storm. If you decide to leave your property after the storm, make sure to take them with you.

## **What happens if I own a trailer and rent the land?**

- G. If you own a trailer or a house, and rent the land, **you are responsible for repairs to the house or trailer**. The owner of the land is responsible for fixing any damages to the ground or property (fallen trees, damage to the septic system, etc.)
- H. **The owner can charge rent for the land if the land is habitable**. Even if your house or your trailer is damaged or destroyed, if there are no problems with the land, it is likely that the owner can charge rent for the land. If the landlord charges you rent for the lot and you think it is unfair, call an attorney to see if there are any defenses available to you.
- I. If there are problems with the land and the owner is not fixing them (for example, fallen trees, damage to the septic system) read the tips above about your rights as a tenant.
- J. If your house or your trailer is destroyed and you wish to leave it, read your contract and see if there is a process to terminate the contract for your land. Follow the process to inform the owner you are going to terminate the contract for your land. It is possible that you will have to pay some rent for a month or two before you are able to terminate the contract for your land - - read your contract to see the specific terms.

### INFORMATION PROVIDED BY THE FOLLOWING ORGANIZATIONS:

Legal Aid of North Carolina



North Carolina Justice Center

