

Repair and Remedy Case. A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$ 1 0,000, excluding statutory interest and court costs but including attorney fees, if any. Repair and remedy cases are governed by Rules 500-507 and 509 of Part v of the Rules of Civil Procedure. To the extent of any conflict between Rule 509 and the rest of Part v, Rule 509 applies.

Sec. 92.052. LANDLORD'S DUTY TO REPAIR OR REMEDY. (a) A landlord shall make a diligent effort to repair or remedy a condition if:

(1) the tenant specifies the condition in a notice to the person to whom or to the place where rent is normally paid;

(2) the tenant is not delinquent in the payment of rent at the time notice is given; and

(3) the condition:

(A) materially affects the physical health or safety of an ordinary tenant; or

(B) arises from the landlord's failure to provide and maintain in good operating condition a device to supply hot water of a minimum temperature of 120 degrees Fahrenheit.

(b) Unless the condition was caused by normal wear and tear, the landlord does not have a duty during the lease term or a renewal or extension to repair or remedy a condition caused by:

(1) the tenant;

(2) a lawful occupant in the tenant's dwelling;

(3) a member of the tenant's family; or

(4) a guest or invitee of the tenant.

(c) This subchapter does not require the landlord:

(1) to furnish utilities from a utility company if as a practical matter the utility lines of the company are not reasonably available; or

(2) to furnish security guards.

(d) The tenant's notice under Subsection (a) must be in writing only if the tenant's lease is in writing and requires written notice.

Sec. 92.056. LANDLORD LIABILITY AND TENANT REMEDIES; NOTICE AND TIME FOR REPAIR. (a) A landlord's liability under this section is subject to Section 92.052(b) regarding conditions that are caused by a tenant and Section 92.054 regarding conditions that are insured casualties.

(b) A landlord is liable to a tenant as provided by this subchapter if:

(1) the tenant has given the landlord notice to repair or remedy a condition by giving that notice to the person to whom or to the place where the tenant's rent is normally paid;

(2) the condition materially affects the physical health or safety of an ordinary tenant;

(3) the tenant has given the landlord a subsequent written notice to repair or remedy the condition after a reasonable time to repair or remedy the condition following the notice given under Subdivision (1) or the tenant has given the notice under Subdivision (1) by sending that notice by certified mail, return receipt requested, or by registered mail;

(4) the landlord has had a reasonable time to repair or remedy the condition after the landlord received the tenant's notice under Subdivision (1) and, if applicable, the tenant's subsequent notice under Subdivision (3);

(5) the landlord has not made a diligent effort to repair or remedy the condition after the landlord received the tenant's notice under Subdivision (1) and, if applicable, the tenant's notice under Subdivision (3); and

(6) the tenant was not delinquent in the payment of rent at the time any notice required by this subsection was given.

(c) For purposes of Subsection (b)(4) or (5), a landlord is considered to have received the tenant's notice when the

landlord or the landlord's agent or employee has actually received the notice or when the United States Postal Service has attempted to deliver the notice to the landlord.

(d) For purposes of Subsection (b)(3) or (4), in determining whether a period of time is a reasonable time to repair or remedy a condition, there is a rebuttable presumption that seven days is a reasonable time. To rebut that presumption, the date on which the landlord received the tenant's notice, the severity and nature of the condition, and the reasonable availability of materials and labor and of utilities from a utility company must be considered.

(e) Except as provided in Subsection (f), a tenant to whom a landlord is liable under Subsection (b) of this section may:

- (1) terminate the lease;
- (2) have the condition repaired or remedied according to Section [92.0561](#);
- (3) deduct from the tenant's rent, without necessity of judicial action, the cost of the repair or remedy according to Section [92.0561](#); and
- (4) obtain judicial remedies according to Section [92.0563](#).

(f) A tenant who elects to terminate the lease under Subsection (e) is:

- (1) entitled to a pro rata refund of rent from the date of termination or the date the tenant moves out, whichever is later;
- (2) entitled to deduct the tenant's security deposit from the tenant's rent without necessity of lawsuit or obtain a refund of the tenant's security deposit according to law; and
- (3) not entitled to the other repair and deduct remedies under Section [92.0561](#) or the judicial remedies under Subdivisions (1) and (2) of Subsection (a) of Section [92.0563](#).

(g) A lease must contain language in underlined or bold print that informs the tenant of the remedies available under this section and Section [92.0561](#).