

FACT SHEET



Andrew M. Cuomo, Governor

A PUBLICATION OF NEW YORK STATE
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#28 Painting Rent Controlled Apartments

Painting and decorating service where required to be supplied by the owner, is considered to be an essential service included in the maximum rent for a rent controlled apartment. Generally, this means that the owner must paint the tenant's apartment at two-year intervals, or at three-year intervals if it was the owner's practice to paint every third year. Effective August 3, 1967, the Housing Maintenance Code of the City of New York was amended to require an owner of a multiple dwelling to paint occupied dwelling units every three years and more often when required by contract or other provision of law. However, if the building's owner never supplied this service, the Rent and Eviction Regulations do not require the owner to do so now and no rent reduction will be ordered for denial of such service.

Where painting has not been an essential service for a rent controlled apartment and the landlord paints for the first time in order to comply with the requirements of the Housing Maintenance Code, the painting is considered to be an increase in services (also called Individual Apartment Improvements) under the provisions of Section 2202.4 (a) of the Rent and Eviction Regulations. Upon completion of the painting, the owner may file an *"Owner's Application for Air Conditioner Charges or for an Increase in Maximum Rent for Painting"* (DHCR Form RN-79b, Part B) with the Division of Housing and Community Renewal (DHCR). The owner must provide evidence going back 10 years to establish that painting was not previously an essential service. Tenant consent is not necessary for such an increase because the owner is legally obligated to paint pursuant to the Housing Maintenance Code. If the tenant consents to the rent increase, the owner may use Part A of the RN-79b form.

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.

Once painting is established as an essential service and the owner does not paint in a timely manner when requested to do so by the tenant, the tenant may file with DHCR an *"Application for Rent Reduction Based Upon Decreased Service(s) Individual Apartment"* (DHCR Form RA-81). Under the provisions of Section 2202.16 of the Rent and Eviction Regulations, a rent reduction will be ordered upon a finding that the owner has not properly painted.

The painting service which the owner is obligated to provide is based on prior practice. If in the past the owner supplied the paint and the tenant arranged for the painting or the owner painted one or two rooms at a time, continuation of these practices satisfies the painting requirement of the Rent and Eviction Regulations. Past practice of the owner also dictates the color scheme. However, if an owner is painting for the first time, the owner is only required to paint the apartment in a neutral shade. To be eligible for the rent increase, the owner must not only provide the paint but also arrange for and pay for the painters. All painting must be done in a workmanlike manner. Depending on past practice, the painting service may include provision of shades, blinds, wallpaper, trim, etc., in addition to plastering and painting.

If the tenant files a complaint with DHCR for failure to paint and in response the owner states that painting was never provided and there is no earlier record with DHCR on painting, it is the responsibility of the owner to establish proof of the painting practice for the past 10 years. If DHCR finds that the owner has failed to maintain the painting service as required, the tenant's rent will be reduced by 10%, and the rent reduction will remain in effect until the owner provides the required painting service in a workmanlike manner. The owner may then apply to DHCR, using *"Owner's Application to Restore Rent"* (DHCR Form RTP-19), for a rent restoration. The application may also be submitted online at nyshcr.org

Before filing any complaint with DHCR, the tenant should contact the owner in an attempt to resolve the issue.

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

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Bronx

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Bronx, NY 10458

Upper Manhattan

163 W. 125th Street
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White Plains, NY 10601
North side of 110th St. and above

Westchester County

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