

# **WHAT TENANTS AND LANDLORDS NEED TO KNOW IN THE WAKE OF HURRICANE SANDY**

Nobody can foresee a natural disaster or predict the devastation it can cause to a rental property. That makes it difficult for both landlords and tenants to know how to handle things when disaster strikes. The information contained in this document should be considered as a general guideline and not an absolute answer. Please consult an attorney for specific answers to your individual questions.

## **DO I HAVE TO CONTINUE PAYING RENT IF I HAVE BEEN DISPLACED FROM MY RENTAL UNIT?**

If a property is severely damaged by Hurricane Sandy and is considered unsafe after an inspection, the tenant is not legally required to continue living there. This is considered a "Constructive Eviction," in that the tenant can no longer reside in the unit due to lack of utilities, lack of shelter, unhealthful conditions, etc. They have the right to break their lease and vacate the property with minimal financial penalty. Their obligation with respect to rent is ended as of the date of vacatur. However, even in the case of natural disasters, the lease agreement does not end automatically. For the agreement to officially end, one party has to take actual action to end it. Therefore, if a building is considered non-livable after a natural disaster, the landlord still has to officially give the renter a notice that terminates the lease agreement due to the non-livable state of the building. Likewise, the tenant should give written notice to the landlord that the lease is terminated due to the non-livable state of the building.

## **IS MY LANDLORD RESPONSIBLE FOR THE LOSS OF MY PROPERTY?**

A landlord is not a guarantor of a tenant's property. For this reason, every tenant should have renter's insurance. If your personal goods were damaged or destroyed, you should contact your private renter's insurance. To file a claim the insurance company typically wants a list of damaged goods, proof of their cost and value, and a payment for the deductible. The

insurer may also send a claims adjuster to assess your damage. If possible, photograph the damages so you have visual evidence of your losses. If you must throw damaged property away (such as a molding couch or rotting clothing) document it by taking pictures and keeping inventory. If you spend money on emergency repairs or if you are forced to pay for a hotel, keep your receipts. Your insurance may cover some of these expenses. In addition, both tenants and landlords should contact FEMA, if they haven't already done so, to ascertain their eligibility for relief aid.

**DO I (AS THE LANDLORD) HAVE TO RETURN MY TENANT'S SECURITY DEPOSIT IF THE LEASE IS TERMINATED BY THE HURRICANE?**

If your property is damaged in a natural disaster, you may be tempted to use your tenant's security deposit to tackle the repairs. Since the security deposit was collected as part of the rental agreement to pay for damage done by the tenant, you're required to use it as such. In the event of your tenant's departure, you're required to assess the property for damage THEY CAUSED and refund any remaining deposit between 15 and 30 days of the end of the lease agreement. You can't use the deposit for damage caused by a natural disaster.