

# Retaliation or Illegal Discrimination in Rental Housing

## Discrimination

Under Virginia law, landlords may not take action against tenants (including refusing to renew a lease) because of race, color, religion, national origin, sex, elderliness, familial status (having children), military status, source of funds (with some exceptions), sexual orientation, gender identity, or disability. Va. Code § 36-96.3.

Some examples:

- A landlord with more than four rental units may not terminate a lease (even a month-to-month one) because the tenant participated in the Virginia Rent Relief Program or received rental assistance from any other source. That would be discrimination based on “source of funds.”
- A landlord may not refuse to renew a lease because the tenant has a new baby (assuming they are not violating local occupancy ordinances). That would be discrimination based on familial status.
- A landlord may not simply refuse to renew a lease because the tenant needs a therapy pet for their disability. That would be discrimination based on disability.

## Retaliation

Virginia law gives tenants limited protections against retaliation by a landlord. A landlord may not terminate a tenant’s lease (or otherwise reduce services or raise rent) in retaliation for the tenant doing one of the following things, once the landlord knows about it:

- Filing a complaint with the health department, building department, or code enforcement about health and safety issues at the property;
- Organizing or joining a tenants’ organization;
- Filing a complaint or a lawsuit against the landlord for violating the Virginia Residential Landlord and Tenant Act; or
- Testifying against the landlord in court.

But even if you have done one of those things and the landlord knows, they can still evict you based on unpaid rent if you fall behind. Va. Code § 55.1-1258.

## How to raise discrimination or retaliation as a defense in court

It can be hard to prove that a landlord’s actions are based on illegal discrimination or retaliation. We strongly encourage tenants to get advice on the issue from legal aid (866-534-5243) or the Virginia Fair Housing Office (for discrimination).

If you have evidence your landlord discriminated or retaliated, you can ask the judge to dismiss the case or give you a chance to show your evidence at trial. You can use the form on the next page to do that.

*This is general legal information, not case-specific advice. For advice about your case, please contact legal aid (866-534-5243) or the Eviction Legal Helpline ([www.evictionhelpline.org](http://www.evictionhelpline.org) or 833-NoEvict). (7/11/22 H9)*

**Instructions:** If you think your notice does not have the required information, mark the checkbox(es) for what is missing. Hand the completed form to the judge before admitting you owe rent, so they rule on this before giving the landlord a judgment for possession.

**REQUEST TO DISMISS OR GRANT A TRIAL WITH PLEADINGS:  
EVICTION BASED ON ILLEGAL DISCRIMINATION OR RETALIATION**

I hereby request the Court dismiss the current unlawful detainer case because the landlord's action in terminating or refusing to renew the lease is based on illegal discrimination or retaliation, as indicated below.

- The landlord's action was based on my race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, military status, or disability.<sup>1</sup>
- The landlord took the action after knowing that I had done one of the following activities protected by law against such retaliation.<sup>2</sup>
  - Complained to the health department, building department, or code enforcement about health and safety issues at the property.
  - Filed a complaint about the landlord's violation of the Virginia Residential Landlord and Tenant Act.
  - Attempted to organize or to join a tenants' organization.
  - Testified against the landlord in court.

If the Court will not dismiss the case, I request that the case be set for trial with pleadings.

Full name of Defendant/Tenant: \_\_\_\_\_

Signature of Defendant/Tenant: \_\_\_\_\_

Date: \_\_\_\_\_

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<sup>1</sup> Va. Code § 36-96.3.

<sup>2</sup> Va. Code § 55.1-1258(A).