

JDF 104	Unlivable Conditions at Home – Affidavit Warranty of Habitability Affirmative Defense	
1. Court: <input type="checkbox"/> District <input type="checkbox"/> County Colorado County: _____ Mailing Address: _____		Event Code: AFFI <i>This box is for court use only.</i>
2. Parties to the Case: Landlord: _____ (Also called the Plaintiff) v. Tenant: _____ (Also called the Defendant)		
3. Filed by: Name: _____ Mailing Address: _____ City: _____ St: _____ Zip: _____ Phone: _____ Email: _____		4. Case Details: Number: _____ Division: _____ Courtroom: _____

I submit a breach of warranty of habitability affirmative defense, under C.R.S. § 38-12-507(1)(c), to the Plaintiff's eviction claims for non-payment of rent.

5. Unlivable Conditions

- 1) Our rental agreement was entered into, extended, or renewed on or after September 1, 2008.
- 2) The landlord has breached the warranty of habitability.
- 3) My rental home was not in a livable condition, because (of): *(check all that apply)*

- ☐ **Waterproofing and weather protection of roof and exterior walls** were not maintained in good working order (includes windows and doors).
- ☐ **Plumbing or gas facilities** were not maintained in good working order or did not comply with the applicable building codes when they were installed.
- ☐ **Running water and reasonable amounts of hot water** were not furnished to the appropriate fixtures and/or were not connected to the appropriate sewer system.
- ☐ **Functioning heating facilities** were not in good working order and/or did not comply with the applicable building codes when they were installed.

- ☐ **Electrical lighting** was not maintained in good working order and/or did not comply with the applicable building codes at the time it was installed.
- ☐ **Common Areas** (if any) were not kept reasonably clean, sanitary, free of trash, rubbish and debris, and/or bugs and pests.
- ☐ **Appropriate extermination** was not done that was needed to eliminate infestations of rodents or "vermin."
- ☐ An appropriate **number of outdoor trash receptacles** were not in good repair.
- ☐ **Floors, stairways and railings** were not in good repair.
- ☐ **Locks or security devices** on all exterior doors and openable windows were not in good working order.
- ☐ **Compliance with building, housing and health codes** applicable to the property, the violation of which created a condition that materially interfered with my life, health or safety.
- ☐ **Functioning appliances** were not maintained in good working order.
- ☐ **Mold**, or conditions that cause the premises to be damp, which interferes with my health or safety.
- ☐ **Damage** from an environmental public health event. See C.R.S. §§ 38-12-503(2)(a)(III) and 38-12-505(1)(b)(XIII).

For leases entered on or after August 7, 2023:

- ☐ **Radon.** The landlord failed to make a reasonable effort to reduce (*mitigate*) high (4 pCi/L) radon levels within 180 days of notice. Or they failed to make proper radon disclosures before I signed the lease. C.R.S. § 38-12-503(2.4).
- ☐ **Other:** _____

6. Notice

I informed my landlord, or an agent acting on behalf of my landlord, about these conditions, by:
(check at least one)

☐ Written Note or Letter. ☐ Email or E-portal System. ☐ Other: _____

On: (*enter dates*) _____.

7. Retaliation

Did the landlord retaliate against you for reporting the conditions to them, a government agency, or for joining a tenant's association? *(yes or no*)* _____.

*** If yes**, how did they retaliate?

☐ Increasing Rent. ☐ Decreasing Services. ☐ Bringing / Threatening Eviction.

8. Rent Due and Expenses

I owe this much in back-due rent: \$ _____.

I spent this much because the home was uninhabitable: *(expenses)* \$ _____.

The difference is: *(total rent-due minus expenses)* \$ _____.

9. Deposit Waiver

- Note:** If the rent you owe is more than the expenses you incurred:
- You must pay the difference to the Court.
 - The Court will hold the money in its registry until the case is resolved.

Can you afford to deposit the difference with the Court? *(yes or no*)* _____.

***If no:** *See C.R.S. § 38-12-507(1)(c)(II).*

I request that the court find me indigent and waive the requirement.

a) My net monthly income is: \$ _____.

b) Including me, I have this many dependents: _____.

c) The monthly rent is: \$ _____.

d) The monthly utility expense is: *(heat, water, electricity, gas, and other necessary services or facilities)* \$ _____.

10. Remedies

I would like the court to: *see C.R.S. § 38-12-507(2)(d.5)*

1) Determine the premises rental value, in its uninhabitable state, to the date of trial.

- 2) Deny possession of the premises to the landlord, conditioned on that I pay the adjusted rental value to the date of trial.

I would also like the court to do the following:

see C.R.S. § 38-12-507(2)(d),(d.5)

(check all that apply)

- ☐ Order the landlord to make repairs.
- ☐ Order the landlord to pay a rent refund for past rent paid.
- ☐ Order the landlord to make a reduction in rent until repairs are completed.
- ☐ Order the landlord to pay my attorney fees.
- ☐ Order the landlord to pay for a hotel room until repairs are complete or move me to a comparable unit.
- ☐ Find that deductions made from the rent were compliant with the law.
- ☐ Find that the Notice to Quit or Demand given by the Landlord is retaliatory and unenforceable and award me damages and/or terminate the lease.
- ☐ Other: _____.

11. Certificate of Service

I certify that on *(enter date)* _____, I gave a copy of this document to the other parties by: *(select at least one)*

- ☐ Colorado Courts E-Filing. www.jbits.courts.state.co.us/efiling
- ☐ Regular Mail, addressed to: *(name, full address)* ☐ Hand Delivery, to: *(name, place)*
- 1) _____.
- 2) _____.
- ☐ Other: _____.

12. Verified Signatures

Tenant 1

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the *(date)* _____ day of *(month)* _____, *(year)* _____
at City: *(or other location)* _____
and State: *(or country)* _____

Print Your Name: _____

Your Signature: _____

Lawyer Signature: *(If any)* _____

Tenant 2

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the *(date)* _____ day of *(month)* _____, *(year)* _____

at City: *(or other location)* _____

and State: *(or country)* _____

Print Your Name: _____

Your Signature: _____

Lawyer Signature: *(If any)* _____

Tenant 3

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the *(date)* _____ day of *(month)* _____, *(year)* _____

at City: *(or other location)* _____

and State: *(or country)* _____

Print Your Name: _____

Your Signature: _____

Lawyer Signature: *(If any)* _____