TENANT’S {% if include\_conditions\_in\_complaint and complaint\_ask\_for\_tro or not include\_conditions\_in\_complaint and complaint\_ask\_for\_tro %}EMERGENCY {% endif %}MOTION

COMMONWEALTH OF MASSACHUSETTS TRIAL COURT

|  |  |
| --- | --- |
| {{ trial\_court.address.county }}, ss | {{ trial\_court }}  Docket number: |
| {{ users }}  {{ users.as\_noun("Tenant") }} / {{ users.as\_noun("Plaintiff") }} |  |
| vs. | {%p if include\_conditions\_in\_complaint and complaint\_ask\_for\_tro %}  **TENANT’S EMERGENCY MOTION FOR REPAIRS AND OTHER RELIEF**  {%p elif include\_conditions\_in\_complaint and not complaint\_ask\_for\_tro %}  **TENANT’S MOTION FOR REPAIRS AND OTHER RELIEF**  {%p elif not include\_conditions\_in\_complaint and complaint\_ask\_for\_tro %}  **TENANT’S MOTION FOR EMERGENCY RELIEF**  {%p else %}  **TENANT’S MOTION FOR RELIEF**  {%p endif %} |
| {{ other\_parties }}  {{ other\_parties.as\_noun("Landlord") }} / {{ other\_parties.as\_noun("Defendant") }} |  |

{% if users | length > 1 %}Plaintiffs (the “Tenant”) hereby move {% else %}Plaintiff (the “Tenant”) hereby moves {% endif %}this Court to order {% if other\_parties | length > 1 %}Defendants {% else %}Defendant {% endif %}(the “Landlord”), as owner or landlord of {{ users[0].address.on\_one\_line() }} (the “home”), to do the following with respect to the subject premises located at {{ users[0].address.on\_one\_line() }} (the “home”):

1. {%p if include\_conditions\_in\_complaint %}
2. Make emergency needed repair(s) so the home is up to code and livable for the Tenant;
3. {%p endif %}
4. {%p if verified\_complaint\_claims["utility shutoff"].has\_claim %}
5. Immediately restore heat/electricity/water to the home;
6. {%p endif %}
7. {%p if verified\_complaint\_claims["utility no agreement"].has\_claim %}
8. Immediately transfer the utilities (electricity/gas/water) into the Landlord’s name, as there is no written agreement between the parties obligating the Tenant to be responsible for utilities;
9. {%p endif %}
10. {%p if verified\_complaint\_claims["illegal lockout"].has\_claim %}
11. Restore the Tenant’s access to the home and provide a working key;
12. {%p endif %}
13. {%p if verified\_complaint\_claims["entered without permission"].has\_claim %}
14. Not enter the Tenant’s home without permission;
15. {%p endif %}
16. Grant the Tenant relief as requested below.

The following current facts and circumstances put the Tenant at risk of immediate and irreparable harm because they affect the health, well-being or safety of the Tenant:

* 1. {%p for condition in bad\_conditions.active\_conditions() %}
  2. {{ condition.original\_description }}
  3. {%p endfor %}
  4. {%p for condition in bad\_conditions.resolved\_conditions() %}
  5. {{ condition.original\_description }}
  6. {%p endfor %}
  7. {%p if bad\_conditions.has\_condition(["heat\_not\_working", "not\_64\_heat\_provided", "not\_68\_heat\_provided"]) %}
  8. The Landlord failed to provide sufficient heat during the heating season.
  9. {%p endif %}
  10. {%p if bad\_conditions.has\_condition("heating\_over\_78") %}
  11. The Landlord allowed the temperature to exceed 78 degrees in the heating season.
  12. {%p endif %}
  13. {%p if bad\_conditions.has\_condition(["water\_shutoff", "no\_water","no\_hot\_water\_heater", "insufficient\_water", "no\_hot\_water"]) %}
  14. The Landlord failed to provide water, hot water, or failed to provide safe water.
  15. {%p endif %}
  16. {%p if verified\_complaint\_claims["illegal lockout"].has\_claim %}
  17. On or around {{ verified\_complaint\_claims["illegal lockout"].date }} the Landlord locked the Tenant out of the Tenant’s home or moved the Tenant’s belongings out without permission from the court, or threatened to do so, in violation of M.G.L. c. 186, §§14 and 15F and G.L. c. 184, §18{% if is\_landlord\_subject\_to\_93a %}, and M.G.L. c. 93A{% endif %}.
  18. {%p endif %}
  19. {%p if verified\_complaint\_claims["entered without permission"].has\_claim %}
  20. On or around {{ verified\_complaint\_claims["entered without permission"].date }} the Landlord came into the premises without the Tenant’s permission in violation of M.G.L. c. 186, §14{% if is\_landlord\_subject\_to\_93a %}, and M.G.L. c. 93A{% endif %}.
  21. {%p endif %}
  22. {%p if verified\_complaint\_claims["insufficient notice"].has\_claim %}
  23. On or around {{ verified\_complaint\_claims["insufficient notice"].date }} the Landlord failed to give the Tenant reasonable advance notice for access to the premises in violation of 105 CMR 410.003 (E); M.G.L. c. 186, §14{% if is\_landlord\_subject\_to\_93a %}, and M.G.L. c. 93A{% endif %}.
  24. {%p endif %}
  25. {%p if verified\_complaint\_claims["utility shutoff"].has\_claim %}
  26. On or around {{ verified\_complaint\_claims["utility shutoff"].date }} the Landlord caused the Tenant’s {{ complaint\_utility\_shutoff.true\_values() }} to be shut off.
  27. {%p endif %}
  28. {%p if verified\_complaint\_claims["utility no agreement"].has\_claim %}
  29. The Landlord failed to pay for {{ complaint\_utility\_not\_paid.true\_values() }} utilities without an express written agreement requiring the Tenant to pay for utilities in violation of M.G.L. c. 186, §14{% if is\_landlord\_subject\_to\_93a %}, and M.G.L. c. 93A{% endif %}.
  30. {%p endif %}
  31. {%p if verified\_complaint\_claims["other"].has\_claim %}
  32. On or around {{ verified\_complaint\_claims["other"].date }} the Landlord also violated the law when they {{ fix\_punctuation(verified\_complaint\_claims["other"].details) }}
  33. {%p endif %}
  34. {%p if tenant\_gets\_rent\_subsidy and tenant\_subsidy\_is\_voucher and verified\_complaint\_tenant\_voucher\_at\_risk %}
  35. Putting the Tenant’s housing voucher at risk because the housing authority will not continue a contract with the Landlord unless the premises meets the housing quality standards.
  36. {%p endif %}

{% if include\_conditions\_in\_complaint %}Immediate repairs are needed to the home to make it livable. Either as required in the event of condemnation (105 C.M.R. § 410.900 (E)) or pursuant to the Court’s equitable powers, the Court should order the Landlord to provide the Tenant(s) with “comparable, suitable housing” as needed while the home is brought up to code. One or more of the Sanitary Code violations in the home are deemed to be threats to the health, well-being or safety of the Tenant, 105 C.M.R. § 410.630. {% endif %}Injunctive relief is authorized pursuant to G.L. c. 111 § 127I; G.L. c. 186 § 14; G.L. c. 93A and/or the Court’s general injunctive powers.

## Tenant’s Request for Relief

The Tenant asks the Court to:

1. Issue a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction requiring the Landlord to:
2. {%p if include\_conditions\_in\_complaint %}
3. Make repairs so the home is up to code.
4. {%p endif %}
5. {%p if verified\_complaint\_claims["utility no agreement"].has\_claim %}
6. Transfer all utilities to the Landlord’s name and pay for utilities.
7. {%p endif %}
8. {%p if verified\_complaint\_claims["utility shutoff"].has\_claim %}
9. Restore utilities to the home.
10. {%p endif %}
11. {%p if verified\_complaint\_claims["illegal lockout"].has\_claim %}
12. Immediately restore the Tenant’s access to the home.
13. {%p endif %}
14. {%p if verified\_complaint\_claims["entered without permission"].has\_claim %}
15. Not enter the Tenant’s home without permission.
16. {%p endif %}
17. {%p if verified\_complaint\_claims["insufficient notice"].has\_claim %}
18. Give the Tenant reasonable notice for repairs: unless there is an emergency, at least 48 hours.
19. {%p endif %}
20. {%p if include\_conditions\_in\_complaint %}
21. Provide the Tenant(s) with “comparable, suitable housing” as needed, either as required in the event of condemnation (105 C.M.R. § 410.900) or pursuant to the Court’s equitable powers, until such time as the repairs have been completed.
22. {%p endif %}
23. Waive the requirement of Rule 65(c) of the Massachusetts Rules of Civil Procedure that the Tenant provide security for the issuance of the above Order because the Tenant cannot afford to provide such security. The requirement to post security should also be waived for “good cause.” Requiring security to be posted for a residential tenant to bring their home up to code or otherwise enforce their right to safe housing would be against public policy.
24. Schedule a Preliminary Injunction Hearing prior to the expiration of any Temporary Restraining Order that may be granted.
25. Award such further relief as justice requires.

{%p if verified\_complaint\_wants\_fee\_waiver == “two\_dollar\_fee”%}

**Additional Facts for Petition Under G.L. c. 111 §127C & 127D**

1. The Tenant’s apartment has been inspected by the City or Town (or the Tenant will have requested an inspection at least 24 hours before filing this motion) and the conditions violate the State Sanitary Code and may endanger health or well-being; and
2. The problems needing to be fixed “were not substantially caused” by the Tenant or anyone acting under their control.

{%p endif %}

{%p if person\_answering == "attorney" and representation\_type == "entering\_appearance" %}

## Signature of Attorney

Respectfully submitted,

{{ users }}, {{ users.as\_noun("Plaintiff") }}

By their attorney,

{{ users[0].attorney.signature\_if\_final(i) }}

{{ users[0].attorney }}

{{ users[0].attorney.organization }}

{{ users[0].attorney.address.block() }}

{{ users[0].attorney.phone\_numbers() }}

{{ users[0].attorney.email }}

**Certificate of Service**

I, {{ users[0].attorney }}, certify that a true copy of this motion was given to the Landlord (or their attorney if represented) on {% if service\_today %}{{ today() }}{% else %}\_\_\_\_\_\_\_\_\_\_\_{% endif %} by {% if service\_method == “decide\_later” %}\_\_\_\_\_\_\_\_\_\_\_{% else %}{{ service\_method }}{% endif %}.

{%p if service\_today %}

{{ users[0].attorney.signature\_if\_final(i) }}

{%p else %}

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

{%p endif %}

*Signature of attorney*

{%p else %}

## {%p if users | length > 1 %}

{%p for user in users %}

## Signature of Tenant

Respectfully submitted,

{{ user.signature\_if\_final(i) }}

{{ user.name.full() }}

{% if user.mailing\_address == user.address %}{{ user.mailing\_address.block() }}{% else %}{{ user.address.block() }}

Mailing address:{{ user.mailing\_address.on\_one\_line() }}{% endif %}

{%p if user.phone\_numbers() %}

{{ user.phone\_numbers() }}

{%p endif %}

{{ user.email }}

## Tenant’s Verification

I, {{ user }}, have personal knowledge of the facts stated above and hereby swear under the penalty of perjury that all of those facts are true.

{{ user.signature\_if\_final(i) }}

*Signature of tenant*

Date: {% if user.signature %}{{ today() }}{% endif %}

**Certificate of Service**

I, {{ user }}, certify that a true copy of this motion was given to the Landlord (or their attorney if represented) on {% if service\_today %}{{ today() }}{% else %}\_\_\_\_\_\_\_\_\_\_\_{% endif %} by {% if service\_method == “decide\_later” %}\_\_\_\_\_\_\_\_\_\_\_{% else %}{{ service\_method }}{% endif %}.

{%p if service\_today %}

{{ user.signature\_if\_final(i) }}

{%p else %}

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

{%p endif %}

*Signature of tenant*

{%p endfor %}

{%p else %}

## Signature of Tenant

Respectfully submitted,

{{ users[0].signature\_if\_final(i) }}

{{ users[0].name.full() }}

{% if users[0].mailing\_address == users[0].address %}{{ users[0].mailing\_address.block() }}{% else %}{{ users[0].address.block() }}

Mailing address:{{ users[0].mailing\_address.on\_one\_line() }}{% endif %}

{%p if users[0].phone\_numbers() %}

{{ users[0].phone\_numbers() }}

{%p endif %}

{{ users[0].email }}

## Tenant’s Verification

I, {{ users }}, have personal knowledge of all of the facts stated above and hereby swear under the penalty of perjury that all of those facts are true.

{{ users[0].signature\_if\_final(i) }}

*Signature of tenant*

Date: {% if users[0].signature %}{{ today() }}{% endif %}

**Certificate of Service**

I, {{ users }}, certify that a true copy of this motion was given to the Landlord (or their attorney if represented) on {% if service\_today %}{{ today() }}{% else %}\_\_\_\_\_\_\_\_\_\_\_{% endif %} by {% if service\_method == “decide\_later” %}\_\_\_\_\_\_\_\_\_\_\_{% else %}{{ service\_method }}{% endif %}.

{%p if service\_today %}

{{ users[0].signature\_if\_final(i) }}

{%p else %}

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

{%p endif %}

*Signature of tenant*

{%p endif %}

{%p endif %}