

## **4214 TENANT PETITIONS**

4214.1 The tenant of a rental unit covered by the Rent Stabilization Program, as provided in § 4200.3, or a tenant association at a covered housing accommodation may, by filing a petition with the Rent Administrator, contest the rent for a rental unit on one or more of the grounds provided in §§ 4214.2-4214.8; provided, that:

- (a) A tenant shall file a petition only with regard to the rent for that tenant's rental unit;
- (b) A tenant association shall file a petition only with regard to the rent for the rental unit(s) of a tenant or tenants who has or have agreed in writing to be represented by the tenant association; and
- (c) A reduction or elimination of related services or facilities, including the existence of substantial violations of the Housing Regulations, shall be deemed to affect the lawful rent for a rental unit only if the reduction or elimination is in or to the tenant or tenants' rental unit(s) or a common element of the housing accommodation.

4214.2 A tenant or tenant association may, by filing a petition with the Rent Administrator, contest:

- (a) The initial rent for a newly established rental unit or housing accommodation established under § 4201;
- (b) The initial rent for a rental unit established under § 4202 upon termination of exclusion from coverage by the Act; or
- (c) The initial rent for a rental unit established under § 4203 upon termination of exemption from coverage of the Rent Stabilization Program.

4214.3 A tenant or tenant association may, by filing a petition with the Rent Administrator, contest the rent for a rental unit on the grounds that:

- (a) The rent must be reduced because of reductions in related services or facilities, including substantial violations of the Housing Regulations;
- (b) The housing provider has failed to reduce the rent charged or remove any rent surcharge as required for an elderly tenant or tenant with a disability by § 224 of the Act (D.C. Official Code § 42-3502.24) and § 4215 of this chapter; or
- (c) A rent adjustment was unlawful on one or more of the grounds provided in §§ 4214.4, 4214.5, or 4214.6.

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- 4214.4 A tenant or tenant association may, by filing a petition with the Rent Administrator, contest any rent adjustment on the grounds that:
- (a) A rent increase was implemented while the housing provider had not met the registration requirements of Chapter 41 of this title for the rental unit or housing accommodation;
  - (b) A rent increase was implemented while the housing provider lacked a housing business license, as required by § 200 of this title, or any other license to do business as a housing provider or operate the housing accommodation under District law;
  - (c) A rent increase was implemented while the rental unit or the common elements of the housing accommodation were not in substantial compliance with the Housing Regulations, in violation of § 4216;
  - (d) A rent increase was implemented by a notice that did not state the type of rent adjustment, in violation of § 4205.4(a)(1), the increase was based on more than one (1) authorized rent adjustment, in violation of § 4204.1, or the increase was not based on any valid authorization;
  - (e) A rent increase was implemented more than twelve (12) months after the authorization for it became effective, in violation of § 4204.9, or a vacancy adjustment was filed more than thirty (30) days after the vacancy occurred, in violation of §§ 4205.6(b)(1) and 4207.4;
  - (f) A rent increase was implemented within twelve (12) months of a prior rent increase, in violation of §§ 4205.7 or 4205.8;
  - (g) A rent increase was implemented without notice or with less than thirty (30) days' notice of the increase to the tenant, or the notice was otherwise not in compliance with § 4205.4;
  - (h) A rent increase was not properly filed with the Rental Accommodations Division within thirty (30) days after its effective date, or the filing was otherwise not in compliance with § 4204.10;
  - (i) A rent increase was implemented as retaliatory action in violation of § 502 of the Act (D.C. Official Code § 42-3505.02) and § 4303 of this title; or
  - (j) A rent increase was implemented after failing to make the required disclosures under § 222 of the Act (D.C. Official Code § 42-3502.22) or § 4111 of this title.
- 4214.5 A tenant or a tenant association may, by filing a petition with the Rent Administrator, contest the implementation of any rent adjustment for which prior

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administrative approval is not required, in accordance with § 4204.2, on the grounds that:

- (a) An adjustment of general applicability was implemented in an amount greater than the effective amount published by the Commission or allowed pursuant to §§ 208(h)(2) or 224(a) of the Act (D.C. Official Code §§ 42-3502.08(h)(2) or 42-3502.24(a)) and § 4206 of this chapter;
- (b) A vacancy adjustment was implemented that:
  - (1) Did not follow a vacancy that occurred as required by § 4207.2;
  - (2) Exceeds the percentage of the lawful rent charged to the prior tenant allowed by §§ 213(a) of the Act (D.C. Official Code § 42-3502.13(a)) and § 4207.5 of this chapter;
  - (3) If implemented before the applicability date of the Vacancy Increase Reform Amendment Act of 2018 (D.C. Law 22-223), was not based on a substantially identical rental unit, as previously defined in § 213(b) of the Act (D.C. Official Code § 42-3502.13(b) (2012 Repl.)), if the adjustment was based on former § 213(a)(2) of the Act (D.C. Official Code § 42-3502.13(a)(2) (2012 Repl.));
  - (4) Was implemented within twelve (12) months of a prior vacancy adjustment, in violation of § 208(g)(3) of the Act (D.C. Official Code § 42-3502.08(g)(3)) and § 4205.8 of this chapter, or of the implementation of a hardship surcharge, in violation of § 213(c) of the Act (D.C. Official Code § 42-3502.13(c)) and § 4205.8 of this chapter; or
  - (5) Was implemented and the required disclosures were not timely provided to the new tenant, in violation of § 213(d) of the Act (D.C. Official Code § 42-3502.13(d)) and § 4207.7 of this chapter; or
- (c) For any reason provided in § 4214.4.

4214.6

A tenant or a tenant association may, by filing a petition with the Rent Administrator, challenge or contest the implementation of any rent adjustment for which prior administrative approval is required, in accordance with §§ 4204.3 or 4204.4, including a rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)), on the grounds that:

- (a) A rent increase was implemented without obtaining the necessary prior approval, or while an order authorizing a rent adjustment was stayed pending appeal;

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- (b) A rent increase was implemented in an amount greater than the approved rent adjustment;
- (c) A rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)) was not taken and perfected in accordance with the provisions of the Act and Chapters 41 and 42 of this title in effect at the time the adjustment became authorized;
- (d) The administrative approval for a rent adjustment was obtained by fraud, deceit, or concealment or misrepresentation of material fact, and the existence of such wrongdoing was not known to the tenant while the petition or application was or could have been contested;
- (e) The tenant or a tenant represented by the tenant association was entitled to and did not receive lawful service or have actual notice of the pending petition or application for the rent adjustment, as required by §§ 4208, 4213, or 4111;
- (f) The housing provider, subsequent to the approval of a rent adjustment, has failed to perform an obligation under a capital improvement, services and facilities, or substantial rehabilitation petition or under a voluntary agreement; or
- (g) For any reason provided in § 4214.4.

4214.7 A tenant or tenant association may contest, by filing a petition with the Rent Administrator, the rent charged for a rental unit on the grounds that related services or facilities have been reduced without prior administrative approval, or that a related service or facility that is required by law was reduced or eliminated, and the service or facility was not promptly restored, as required by §§ 4211.3 and 4211.4.

4214.8 A tenant or tenant association may contest, by filing a petition with the Rent Administrator, the rent for a rental unit on the grounds that there have been excessive and prolonged substantial violations of the Housing Regulations, in accordance with § 4216.8.

4214.9 The tenant of any rental unit or a tenant association in any housing accommodation covered by the Act, without regard to the coverage of the Rent Stabilization Program, may, by filing a petition with the Rent Administrator, complain of and request appropriate relief for any other violation of the Act arising under Titles II, V, VI, or IX of the Act (D.C. Official Code Title 42, Chapter 35, subchapters 2, 5, 6, or 9) or Chapters 43 or 44 of this title, including, but not limited to:

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- (a) Any violation of the notice requirements of § 501 of the Act (D.C. Official Code § 42-3505.01) and §§ 4300-4302 of this title, including, but not limited to, allegations that:
  - (1) The notice does not contain a statement detailing the reasons for and the appropriate time period within which the tenant shall either vacate or correct pursuant to § 501(b) of the Act (D.C. Official Code § 42-3505.01(b)) and § 4301 of this title, if applicable;
  - (2) The notice is given for a rental unit that is subject to registration and is not properly registered;
  - (3) The notice fails to state that a claim of exemption is on file with the Rent Administrator, if applicable;
  - (4) The notice fails to inform the tenant of the right to relocation assistance pursuant to § 701 of the Act (D.C. Official Code § 42-3507.01) and § 4401 of this title, if applicable;
  - (5) The notice fails to inform the tenant of the right to re-rent the rental unit, if applicable; or
  - (6) The notice, if issued pursuant to § 501(b) or (c) of the Act (D.C. Official Code § 42-3505.01(b) or (c)), fails to inform the tenant that a victim of an intra-family offense may be protected from eviction under § 501(c-1) of the Act (D.C. Official Code § 42-3505.01(c-1)).
- (b) Any proposed retaliatory eviction or other retaliatory act in violation of § 502 of the Act (D.C. Official Code § 42-3505.02) and § 4303 of this title;
- (c) Any demand for or failure to refund a security deposit in violation of § 217 of the Act (D.C. Official Code § 42-3502.17) and §§ 308-311 of this title;
- (d) Any interference with the organizing activities listed in § 506(d) of the Act (D.C. Official Code § 42-3505.06(d)) and § 4304 of this title;
- (e) Any rent in excess of the amount permitted when a tenant is required to be released from the obligations of a lease by § 507 of the Act (D.C. Official Code § 42-3505.07) and § 4305 of this title; or
- (f) Any demand for or receipt of a late fee in violation of, or in excess of the amount allowable under, § 531 of the Act (D.C. Official Code § 42-3505.31) and § 4306 of this title.

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- 4214.10 A tenant petition filed under this section shall be filed within three (3) years of the effective date of the rent adjustment, or the date on which any other violation of the Act occurred, including a reduction or elimination of related services or facilities. For the purposes of this section, the effective date of a rent adjustment shall be:
- (a) For the initial rent after a rental unit is established or ceases to be excluded from the Act or exempt from the Rent Stabilization Program, in accordance with §§ 4201, 4202, or 4203, the date on which rent is first due for a newly established unit or first due following the event that causes the unit to be covered by the Rent Stabilization Program;
  - (b) In general, the effective date in accordance with § 4205.6;
  - (c) If the basis for a rent adjustment is a rent ceiling adjustment preserved by § 206(a) of the Act (D.C. Official Code § 42-3502.06(a)), the date on which the corresponding adjustment to the rent charged is implemented;
  - (d) If related services or facilities are substantially reduced or eliminated without being promptly restored, either:
    - (1) The first date on which the tenant had actual or chargeable knowledge of the reduction or elimination; or
    - (2) If the reduction or elimination is a substantial violation of the Housing Regulations, any date on which the violation existed, regardless of the date the tenant first had actual notice of the violation; or
  - (e) For a failure to comply with any obligation under a capital improvement petition, services or facilities petition, substantial rehabilitation petition, or voluntary agreement, the earlier of:
    - (1) The date on which the tenant had actual notice that the housing provider repudiated the obligation; or
    - (2)
      - (A) The stated date, if any, in an approved petition or voluntary agreement by which the obligation was due or was required to be completed by the Act or this chapter; or
      - (B) If no date is stated, the date by which the obligation reasonably should have been completed.

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- 4214.11 A tenant or tenant association shall file a petition under this section in accordance with § 3901 on a form published by the Rent Administrator and shall include the following:
- (a) Proof of tenancy by rent receipt, cancelled check, copy of lease agreement, or, if written proof is not available to the tenant, attestation of tenancy by oral agreement or by conduct of the parties;
  - (b) If a tenant association is filing the petition, proof of the authority of the tenant association to appear in a representative capacity on behalf of any tenant;
  - (c) A copy of a notice to quit or vacate, if applicable; and
  - (d) A copy of any other notice or document applicable to the petition.
- 4214.12 The Rent Administrator, within five (5) days of the receipt of a tenant petition, shall determine that the petition complies with the requirements listed § 4214.11 and, if so, shall transmit the petition, accompanied by the Registration/Claim of Exemption Form for the subject housing accommodation, to the Office of Administrative Hearings within ten (10) business days. If the Rent Administrator determines that the petition raises issues that may be resolved through the Conciliation and Arbitration Service established by § 3913, the Rent Administrator may delay the transmittal of the petition for a reasonable period of time to attempt a settlement of the petition.
- 4214.13 Notice that a case has been opened at the Office of Administrative Hearings on a tenant petition shall be provided in accordance with 1 DCMR § 2923.
- 4214.14 A tenant petition shall be adjudicated before the Office of Administrative Hearings in accordance with 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941, and the party filing the petition shall bear the burden of proving its claims, except claims or defenses for which the burden is shifted as provided by the Act, Chapters 41-44 of this title, or 1 DCMR Chapter 28 and 1 DCMR §§ 2920-2941.
- 4214.15 The Office of Administrative Hearings may order a housing provider to provide relief to a tenant pursuant to § 901 of the Act (D.C. Official Code § 42-3509.01) and § 4217 of this chapter; except, that relief based on petitions filed pursuant to § 4214.9(c) relating to security deposits shall be provided in accordance with §§ 308-311 of this title.
- 4214.16 An appeal of a final order of the Office of Administrative Hearings on a tenant petition may be filed with the Commission in accordance with Chapter 38 of this title.

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SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1409 (March 7, 1986); as amended by Notice of Final Rulemaking published at 33 DCR 2656, 2669 (May 2, 1986); as amended by Final Rulemaking published at 68 DCR 012634 (December 3, 2021); as amended by Final Rulemaking published at 70 DCR 001710 (February 3, 2023).