

Mold in Rentals: Landlord Liability, Responsibility, and Prevention

Where Mold Is Found

Mold comes in various colors and shapes. The villains -- with names like stachybotrys, penicillium, aspergillus, paecilomyces, and fusarium -- are black, white, green, or gray. Some are powdery, others shiny. Some molds look and smell disgusting; others are barely seen -- hidden between walls, under floors and ceilings, or in less accessible spots, such as basements and attics.

Mold often grows on water-soaked materials, such as wall paneling, paint, fabric, ceiling tiles, newspapers, or cardboard boxes. Humidity sets up prime growing conditions for mold. Buildings in naturally humid climates of Texas, California, and the Southern U.S. have experienced more mold problems than residences in drier climates. But whatever the climate, mold can grow as long as moisture is present.

Mold and Your Health

Mold is also among the most controversial of environmental hazards. There is considerable debate within the scientific and medical communities about which molds, and what situations, pose serious health risks to people in their homes. There is no debate, however, among tenants who have suffered the consequences of living amidst (and inhaling) mold spores.

Keep in mind, however, that most mold is not harmful to your health -- for example, the mold that grows on shower tiles is not dangerous. It takes an expert to know whether a particular mold is harmful or just annoying. And it's very tricky to find out whether a person who has been exposed to mold has actually inhaled or ingested it. New tests that measure the presence of a particular mold's DNA in a blood sample are the only way to know for sure whether the mold is present in the body.

Mold and the Landlord's Duty to Maintain Habitable Premises

Mold Caused by a Landlord's Failure to Fix Leaks

Landlords in all states but Arkansas are responsible for maintaining fit and habitable housing and repairing rental property, and this extends to fixing leaking pipes, windows, and roofs -- the causes of most mold. If the landlord doesn't take care of leaks and mold grows as a result, you may be able to hold the landlord responsible if you can convince a judge or jury that the mold has caused a health problem.

Mold Caused by Tenant Behavior

The liability picture changes when mold grows as the result of your own behavior, such as keeping the apartment tightly shut, creating high humidity, or failing to maintain necessary cleanliness. When a tenant's own negligence is the sole cause of injury, the landlord is not liable.

Landlord Legal Responsibilities for Tenant Exposure to Mold

With a few exceptions, landlord responsibilities regarding mold have not been clearly spelled out in building codes, ordinances, statutes, or regulations. Below is a discussion of the few states and cities that do have mold laws, and an explanation of how landlords can be held responsible for mold problems even absent specific laws governing mold.

Federal Law on Mold

No federal law sets permissible exposure limits or building tolerance standards for mold in residential buildings.

State Laws on Mold

Only a few states have taken steps toward establishing permissible mold standards. California, Indiana, Maryland, New Jersey, and Texas are among the few that have passed laws aimed at developing guidelines and regulations for mold in indoor air.

Local Laws on Mold

Only a few cities have enacted ordinances related to mold.

Where to Find Information on Mold-Related Laws

For information on mold rules and regulations in your state, check with your state department of environmental protection (find yours at the federal [EPA website](#)) or your state department of public health (the [Centers for Disease Control and Prevention](#) has a list).

To see whether your state is considering mold-related legislation that might affect residential rentals, see the website of the [National Conference of State Legislatures](#) and type “mold” into the search box on the home page. Look for the link to the “Environmental Health Legislation Databases Guide,” and once there, filter by “All States” and “Indoor Air Quality—Mold.”

For local mold-related rules, contact your city manager or mayor’s office or local health department. Check out State and Local Government on the Net (www.statelocalgov.net) for finding local governments online.