

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 853

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Patsy G. Trujillo

AN ACT

**RELATING TO PROPERTY; PROVIDING FOR ADDITIONAL RELIEF TO
RESIDENTS WHO UPON PROVIDING NOTICE TO OWNERS ARE LEFT WITHOUT
UTILITIES.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 47-8-27.1 NMSA 1978 (being Laws 1995,
Chapter 195, Section 11) is amended to read:**

**"47-8-27.1. BREACH OF AGREEMENT BY OWNER AND RELIEF BY
RESIDENT. --**

**A. Upon the failure of the owner to perform his
obligations as required by Section 47-8-20 NMSA 1978, the
resident shall give written notice to the owner specifying the
breach and:**

**(1) if there is a material noncompliance by
the owner with the rental agreement or a noncompliance with**

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 the Uniform Owner-Resident Relations Act materially affecting
2 health and safety, the resident shall deliver a written notice
3 to the owner specifying the acts and omissions constituting
4 the breach. The notice shall state that the rental agreement
5 will terminate upon a date not less than seven days after
6 receipt of the notice if a reasonable attempt to remedy the
7 breach is not made in seven days, and the rental agreement
8 shall terminate as provided in the notice. If the owner makes
9 a reasonable attempt to adequately remedy the breach prior to
10 the date specified in the notice, the rental agreement shall
11 not terminate. If the rental agreement is terminated by the
12 resident and possession restored to the owner, the owner shall
13 return the balance, if any, of prepaid rent and deposit to
14 which the resident is entitled pursuant to the rental
15 agreement or Section 47-8-18 NMSA 1978; or

16 (2) the resident may be entitled to abatement
17 of the rent as provided in Section 47-8-27.2 NMSA 1978.

18 B. The rights provided under this section do not
19 arise if the condition was caused by the deliberate or
20 negligent act or omission of the resident, a member of his
21 family or other person on the premises with his consent. If
22 the noncompliance with the rental agreement or with Section
23 47-8-20 NMSA 1978 results solely from circumstances beyond the
24 owner's control, the resident is entitled only to those
25 remedies set forth in Paragraph (1) or (2) of [this]

underscored material = new
[bracketed material] = delete

1 Subsection A of this section and is not entitled to an action
2 for damages or injunctive relief against the owner.

3 C. The resident may also recover damages and
4 obtain injunctive relief for any material noncompliance by the
5 owner with the rental agreement or the provisions of Section
6 47-8-20 NMSA 1978. The remedy provided in this subsection is
7 in addition to any right of the resident arising under
8 Subsection A of this section.

9 D. If the resident proceeds under Paragraph (1) of
10 Subsection A of this section, he shall not proceed under
11 Paragraph (2) of Subsection A of this section in the same
12 rental period for the same violation. If the resident
13 proceeds under Paragraph (2) of Subsection A of this section,
14 he shall not proceed under Paragraph (1) of Subsection A of
15 this section in the same rental period for the same violation.
16 A resident may, however, proceed under another paragraph of
17 Subsection A of this section for a subsequent violation or the
18 same violation that occurs in subsequent rental periods.

19 E. When the last day for remedying any breach
20 pursuant to the written notice required under the Uniform
21 Owner-Resident Relations Act occurs on a weekend or federal
22 holiday, the period to remedy shall be extended until the next
23 day that is not a weekend or federal holiday.

24 F. Upon the failure of an owner to perform his
25 obligations as required by Subsection A of Section 47-8-20

1 NMSA 1978, and which failure results in the interruption of
2 heat, electricity or water services, the resident shall give
3 written notice to the owner of the conditions needing to be
4 remedied. A resident may remedy the conditions himself and
5 deduct the cost from the rent payment immediately following
6 the month in which the noncompliance occurred if an owner
7 fails to remedy the conditions set out in the notice within
8 forty-eight hours of receipt by the owner of the notice."

9 - 4 -

underscored material = new
[bracketed material] = delete