



*Policy Statement 95-1 (December 6, 1995)*

***Rent Overcharge Awards When The Tenant  
Has Vacated the Apartment  
Without Leaving a Forwarding Address***

This Statement replaces Policy Statement 93-4, issued October 4, 1993. Effective immediately, with the exception noted below for funds now on deposit in DHCR's escrow account, Policy Statement 93-4 is rescinded.

On January 5, 1995, Governor Pataki signed Executive Order No. 2, ordering a moratorium on proposed rules and regulations. Excessive rules and regulations have unduly burdened the State's economy, and imposed needless costs on the business and citizens of the State. To achieve regulatory reform, the Governor directed all State agencies to evaluate existing and proposed rules or regulations, and to identify for modification, rescission or withdrawal, those that are more demanding than is required to meet legislative goals.

Policy Statement 93-4 was issued as an explanatory statement of general policy and procedure, pursuant to DHCR's authority under the Emergency Tenant Protection Regulations, as adopted under the Emergency Tenant Protection Act, and the Rent Stabilization Code. It established additional procedures, considered necessary at the time, to further implement the enforcement provisions of those regulations, with relation to rent overcharge awards, where complaining tenants had vacated their apartments without leaving a forwarding address.

Pursuant to law and regulation, tenants who are charged and pay rents in excess of those which are lawful, and who file complaints with DHCR, are provided with two methods of recovering any overcharge penalty established by DHCR. A tenant in occupancy of the subject apartment when the overcharge award is issued may either offset up to 20% of the amount of the award per month against the lawful rent due, or if no rent credit has been taken, file the order awarding the penalties with a court of competent jurisdiction, and seek enforcement of the order in the same manner as a court judgment. Although the remedy of offset is not available to a tenant who vacates the subject apartment prior to the issuance of the award, that tenant may, nevertheless, have the order entered as a judgment, and seek its enforcement accordingly.

Policy Statement 93-4 sought to address situations where tenants who have filed overcharge complaints, vacate their apartments while the complaint is still pending, not only neglecting to notify DHCR of a change in address, but also failing to leave a forwarding address on file with the Post Office.

*This document is being reissued for informational purposes only.*

*The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.*



The Office of Rent Administration (ORA) has scrutinized these procedures pursuant to the guidelines set forth in the Executive Order. In addition, the limited utility of Policy Statement 93-4 since its issuance more than two years ago, and the fact that the implementation thereof has required the dedication of staff time to an extent unwarranted by the amount of funds claimed by tenants, have led ORA to conclude that such procedures are in fact not beneficial to these tenants. The escrow procedures therefore are inconsistent with the purpose of the Executive Order, and represent an unnecessary administrative burden, especially where vacating tenants, by not furnishing DHCR with a forwarding address, have in effect abandoned their overcharge claims. It should be noted that the discontinuance of the escrow procedures will not deprive such tenants of their rights under the law to recover overcharge awards.

Funds that are on deposit in DHCR's overcharge escrow account as of the issuance date of this Policy Statement, shall remain on deposit until claimed by the tenant named in the overcharge award, or be disposed of pursuant to the appropriate provisions of State law.

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