

George E. Pataki
Governor



Judith A. Calogero
Commissioner

New York State Division of Housing and Community Renewal
Office of Rent Administration
Gertz Plaza
92-31 Union Hall Street
Jamaica, NY 11433

January 5, 2006

This is in response to your October 20, 2005 letter.

You indicate the following:

"...Our attorney has advised me that as the tenant and signor of the lease, I am entitled to 2 keys. The landlord has refused, stating that I am only entitled to one and that he has the right to determine how many keys I get. I responded that my understanding was that DHCR had that right, not the landlord. Incidentally, the key is not a key that I can duplicate, because it's a cylinder like key where only the landlord has the necessary info. In addition the landlord added that he had the right to regulate the number of keys as a security measure."

You pose the following questions:

Question 1: "Please advise me as to what is your understanding re this and whether DHCR or the landlord makes this determination?"

Answer 1: The analysis of this issue is governed by two principles, namely, that the owner must maintain base date services and that the owner must maintain services required by law. Entitlement to a front door key, or to an equivalent method of access, is clearly a required service.

Please direct your attention to an opinion letter, namely, that of October 16, 1997, particularly to Question 2 on page 2 and the Walden Terrace decision referenced there. The Walden Terrace court held that an owner does not have to provide an

unlimited number of keys to tenants at no charge. The Court approved of an arrangement by which non-duplicable keys were furnished free of charge to all residents and members of their immediate families over ten years of age and additional keys were available only upon payment of ten dollars and after some scrutiny. Under the Walden Terrace standards, the provision of two free keys per apartment may be inadequate where there are more than two adults legally occupying the apartment. Although a definitive answer cannot be given in this letter, we would state, as we did in our October 16, 1997 letter "[d]istributing a key at no charge for each legal occupant of permissible age would be advisable to minimize the likelihood of a finding that required services have been reduced."

With regard to the replacement of a lost key or to a "second (emergency) key", the base date or subsequent practice controls as to whether charging a fee for such additional key constitutes a diminution of a required service or an overcharge.

Question 2: "If it is 2 keys and the landlord refuses to comply, how could that be enforced? Would DHCR consider that a reduction in services and therefore a valid reason for a reduction in the rent?"

Answer 2: See Answer 1 above. DHCR is authorized to reduce the rent of any rent regulated apartment when services are not maintained. Copies of Fact Sheets #3 - Required and Essential Services and #14 - Rent Reductions Due to Decreased Services are attached for your convenience.

We trust that we have responded fully to your inquiry.

Please be advised that this opinion letter is not a substitute for a formal agency order issued upon prior notice to all parties and with all parties having been afforded an opportunity to be heard.

Very truly yours,

Michael B. Rosenblatt
Deputy Counsel

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MBR:CK

CC: Deputy Commissioner Roldan
(col-1938)