

SAMPLE COMPLAINT LETTER for Drifting Secondhand Tobacco Smoke

Should be sent Certified Mail to obtain a return receipt. If you can cc the letter to an attorney, that would be helpful.

When a landlord or manager fails to adequately address your verbal complaint about a drifting smoke issue, the next step is to formalize your concerns in a written letter for documentation purposes. If the problem is not resolved, then you will have documentation of what has transpired providing you with the option to take the issue to the next level.

<p>Establish your history as a tenant.</p>	<p>Dear _____,</p> <p>My family and I have lived in _____ (name) apartment building since 19 __. We have paid the rent on a timely basis and been good tenants.</p>
<p>Explain why you are writing. Describe the problem and when it began.</p>	<p>I am writing to ask you to address a problem I am having with secondhand tobacco smoke seeping into my unit. Beginning [when] 6 months ago, I began to smell cigarette smoke seeping into my [where] bedroom.</p>
<p>Describe what you have done.</p>	<p>I inspected my room to determine where the smoke was entering and identified the window jams and heating vent as the entry point. On [date], I approached the tenant in unit # and informed him that the smoke from his unit was seeping into mine. He said he would stop smoking in that room but after 1 week, I began to smell it again.</p>
<p>HEALTH SYMPTOMS: State the health symptoms and who is experiencing them.</p>	<p>I [and any others] am experiencing headaches, nausea and dizziness as a result of smoke. Both of my children are currently sick and the tobacco fumes are aggravating their breathing problems and healing.</p>
<p>HOW THE PROBLEM AS AFFECTED YOU</p>	<p>I am attaching a letter from my physician stating that secondhand smoke is harming my health.</p>
<p>HOW THE PROBLEM HAS DENIED YOU FULL USE OF THE APARTMENT</p> <p>A "Reduction in Services"</p>	<p>I feel that I have done all that I can to address this issue. I have closed my vents and my windows whenever I smell the fumes. Despite that, the fumes continue to permeate my living space to the extent I have been forced to vacate my apartment when the weather and time of day permits to avoid the smoke.</p> <p>On cold days, I cannot use the heating system since smoke will immediately enter my unit from the shared ventilation.</p> <p>This is clearly a <u>reduction in my housing services.</u></p>
<p>BREACH OF QUIET ENJOYMENT</p>	<p>I feel that the fumes permeating my apartment</p>

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	<p>are “a breach of the covenant of quiet enjoyment.” The fumes are a serious intrusion and prevent me and my family from using the services promised me, like the heating and ventilation system and even the ability to open my windows.</p>
<p>WARRANTY OF HABITABILITY</p>	<p>My unit is not fully habitable as long as secondhand tobacco smoke, a substance declared to be a toxic air contaminant in the State of California, is being allowed to pollute the air in my unit. I am being denied full use of my apartment for which I am paying rent.</p> <p>The Toxic Air Contaminant designation increases the liability for any entity responsible for providing a safe environment.</p>
<p>STATE WHAT YOU WANT</p> <p>Comments: Some of the “solutions” that landlords have offered include:</p> <ol style="list-style-type: none"> 1. An offer to move to another unit away from the smoker. 2. An offer to release you from your lease obligations and provide some moving costs. 3. Sealing off your unit and/or your neighbor’s unit – although there is no guarantee that this eliminates all the toxic seepage. 4. An agreement to monitor the neighbor for “nuisance” behavior and request that he/she comply with restrictions on smoking behavior. 5. An offer to transition the building to all non-smoking as smoking tenants move out. <p>It is up to you what you decide to do.</p>	<p>I am requesting that you act to stop the pollution by a known toxic air contaminant in my unit.</p> <p>Please let me know what measures you will be taking to correct this serious problem and health risk to myself and my family.</p> <p>I fully expect a response and timeline for a resolution to this situation within 10 working days. Absent that, I will be obtaining legal counsel to determine my further recourses.</p>

This process may seem difficult but oftentimes landlords do act when they are presented with the facts in writing and they do not want the consequences of failing to act.

If you have a disability that qualifies you as a protected class either under the Americans with Disabilities Act or the California Fair Housing and Employment Act, please review the document [How Disability Laws Can Help Tenants Suffering from Drifting Secondhand Smoke at the Public Health Law & Policy website.](http://www.phlpnet.org/tobacco-control)