



James G. Dibbini
J.D., C.P.A., M.B.A.



**JAMES G. DIBBINI
& ASSOCIATES, P.C.**

Attorneys At Law

570 Yonkers Avenue, 2nd Floor - Yonkers, NY 10704

TEL (914) 965-1011- FAX (914) 965-0019

e-mail: jdibbini@dibbinilaw.com - website: www.dibbinilaw.com

For Landlords of Rent Stabilized Buildings: Surcharges Can be Collected for Certain Appliances Used in Rented Premises

In rent stabilized buildings, landlords may not charge rents above those permitted under guidelines established annually by local Rent Guidelines Boards. If a landlord does not obey the rent laws, tenants may file a complaint with Department of Housing and Community Renewal (DHCR), which can direct owners to reduce rents and/or may levy fines on the owner. However, surcharges are allowed for the use of certain appliances. The following paragraphs discuss the allowable surcharges landlords may charge on a monthly basis.

There are several factors that will determine the amount of monthly surcharges a landlord may charge a tenant for appliance installation and use. The appliances that the DHCR contemplates when allowing surcharges include washing machines, dryers, dishwashers and air conditioners. For instance, some factors include the following: whether the tenant pays for electricity (“electrical exclusion”) on the premises or whether the owner pays for electricity (“electrical inclusion”); whether the premises are in a Rent Stabilized New York City location or an Emergency Tenant Protections Act (ETPA) location (which includes Nassau, Rockland and Westchester counties) and for air conditioners, whether the owner or tenant provided them.

Washing Machines, Dryers and Dishwashers

Owners are not required to allow tenants to install washing machines, dryers or dishwashers, unless the lease provides otherwise. However, when a tenant does request permission from the owner to install a washing machine, dryer or dishwasher, and the owner consents, the owner may collect a surcharge. The allowable surcharge is based on factors such as the cost of energy to heat water and the cost of electricity, as well as water costs and the wear and tear on plumbing.

Procedurally, it is important to note that the surcharge does not become a part of the legally regulated or maximum rent for the purpose of computing any guidelines or other increases under the Rent Laws or Regulations. The following chart indicates the current per month charge allowable for the particular appliance in “inclusion” or “exclusion” buildings: (Cont.)

This *James G. Dibbini & Associates, P.C. Newsletter* is a publication of James G. Dibbini & Associates, P.C. All Rights Reserved. Quotation with attribution is permitted. This newsletter offers general information and should not be taken or used as legal advice for specific situations, which depend on the evaluation of precise factual circumstances. Please note that James G. Dibbini & Associates, P.C. does not undertake to update its publications after their publication date to reflect subsequent developments. Prior results do not guarantee a similar outcome. This publication may contain attorney advertising.

NEWSLETTER

- MARCH 2010 -

VOLUME 2010 NUMBER 2

MEMBER OF NEW YORK STATE BAR ASSOCIATION, WESTCHESTER COUNTY BAR ASSOCIATION AND YONKERS LAWYERS' ASSOCIATION

<u>Appliance</u>	<u>Inclusion or Exclusion</u>	<u>NYC localities</u>	<u>ETPA localities</u>
Washing Machine	Exclusion	\$16.82/month	\$14.49/month
Washing Machine	Inclusion	\$18.60/month	\$16.28/month
Dishwasher	Exclusion	\$4.74/month	\$4.74/month
Dishwasher	Inclusion	\$7.12/month	\$7.12/month
Electric Dryer	Exclusion	\$0.00/month	\$0.00/month
Electric Dryer	Inclusion	\$15.00/month	\$15.00/month
Gas Powered Dryer	Exclusion	\$0.00/month	\$0.00/month
Gas Powered Dryer	Inclusion	\$8.68/month	\$8.68/month

Air Conditioners

With both the Rent Stabilization and the ETPA locations, the allowable air conditioner surcharges depend on whether the building is “electrical inclusion” or “electrical exclusion” and whether the owner or tenant provides the air conditioner.

The most recent DHCR Operational Bulletin Supplement (Twenty-Fourth Annual Update of Section B of Supplement NO. to Operational Bulletin 84-4) and DHCR Fact Sheet # 27, indicate that in “electrical inclusion” buildings, when the tenant uses an air conditioner that was installed by the tenant between October 1, 2009 and September 30, 2010, the owner may charge a tenant \$27.69 per month. This charge, which began on October 1, 2009, will be adjusted annually upward or downward depending on what increases or decreases are shown in the cost of electricity for electrical inclusion buildings as determined by the Rent Guidelines Board (or a research company they may choose). Also, for air conditioners installed between October 1, 1985 and September 30, 2009, the monthly allowable charge has been reduced to \$27.69 per month.

With “electrical exclusion” buildings, when the tenant provides their own air conditioner installed between October 1, 2009 and September 30, 2010, a \$5.00 per month per air conditioner charge may be payable to the owner only if the air conditioner protrudes beyond the window line.

If the building owner provides a new air conditioner and the tenant gives written consent to pay for it, one-fortieth (1/40th) of the cost of the air conditioner, including installation costs, may be included in the base rent.

Procedurally, separate notification to DHCR is not required, but the surcharge should be included in the next annual rent registration statement and the increase is effective on the first rent payment date following installation.

Call James G. Dibbini & Associates, P.C. if you need representation regarding DHCR matters or other landlord-tenant issues.

Our office also provides legal services in the areas of:

- **Commercial & Residential Real Estate Closings**
- **Civil Litigation**
- **Landlord & Tenant Law**
- **General Business Law**
- **Tax Certiorari**
- **Zoning Matters**
- **DHCR Representation**