



Policy Statement 91-3 (March 20, 1991)

***Effects of Rent Reductions
On Fuel Cost Passalong Adjustments***

This policy statement is being issued to clarify the effect of a rent reduction order, for failure to maintain essential services, on a fuel cost passalong adjustment.

The City law (Local Law 20 of 1980) and Amendment 49 to the Rent and Eviction Regulations which govern the fuel passalong clearly specify that owners are not allowed to collect a fuel cost adjustment for a period of twelve months after a rent reduction was issued for failure to maintain heat or hot water. However, owners were collecting fuel cost adjustments while other service reduction orders, which were not heat and hot water related, were in effect.

Under the Fuel Cost Adjustment Program, owners must certify that they are maintaining and will continue to maintain the required essential services. These services include, but are not limited to heat during the part of the year when required by law, hot water, cold water, superintendent services, maintenance of front or entrance door security, garbage collection, elevator service, gas, electricity and other utility services to both public and required private areas and other utilities and services vital to life, health and safety.

Therefore, a rent reduction order for failure to maintain an essential service, as defined above, will bar the collectibility of any increase in the fuel cost passalong after the effective date of the rent reduction order, until a rent restoration order has been issued. If essential services are restored, and an order is issued by the DHCR restoring the rent, the fuel cost adjustment will automatically become effective on the date the rent restoration becomes effective. However, if the rent reduction is for a failure to maintain heat or hot water, the owner is still barred from collecting the fuel cost adjustment for a period of twelve months. If the rent reduction has been granted for failure to provide a service which is not listed above and cannot be considered detrimental to the health of the tenant(s), then the fuel cost passalong will be collectible. The rent reduction order issued by the DHCR will indicate if the reduction is for failure to provide an essential service.

The fuel cost adjustment regulations require owners to complete, certify, and serve upon each eligible tenant within 60 days after DHCR releases the fuel consumption and price change standards, the *Owner's Report, Certification And Notice of Fuel Cost Adjustment Eligibility* (DHCR form RA 33.10) when there is a finding of a decrease in the cost of fuel. Owners must also file a master copy of the Report together with *Schedule A*, where applicable, and a Schedule of Monthly Rent Increases for all the rent controlled tenants served with copies of the Fuel Cost Adjustment Report. This service and filing must be done even when there is a rent reduction in effect for failure to maintain essential service barring collection of the adjustment. The rent adjustment is collectible when the tenant and DHCR are served with the completed report forms and schedules, and all outstanding rent reductions for failure to maintain essential services are restored, by order of the DHCR, for that tenant. The fuel cost adjustment increase, in the event of a service restoration, will become effective on the date the rent restoration becomes effective.

*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.*

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