

A Tenant Action Sheet Produced By Vermont Tenants  
Champlain Valley Office of Economic Opportunity (CVOEO)



## Utility Diversion

Utility diversion involves situations where a tenant is billed for a utility that is also used by:

- Tenants in another unit
- The landlord
- Common Areas (such as hallways, outdoor lighting, etc.)

In 2006, a bill was introduced in the Vermont Legislature that would have created some clearer legal context for landlords and tenants dealing with such situations (H.73). This bill was never acted upon by the Legislature and so the bill died. No legislation dealing with utility diversion has been introduced since then.

As a result, the practice of utility diversion is not explicitly illegal. However, tenants still have recourse if they find out this is happening.

1. Always contact an expert and get documentation that confirms utility diversion is taking place (i.e. the utility company, an electrician, an inspector, etc.).
2. Estimate a reasonable amount that you think you have overpaid since you have been at the apartment. There is going to be no easy way to do this since there is one meter for multiple spaces.
3. Send the landlord a bill with proof that utility diversion is taking place (Keep copies of everything and always send it certified mail).
4. If the landlord does not reply or if there is still a disagreement, start a case in small claims court (Page 15 of *Renting In Vermont* deals with how to use Small Claims Court).

- Also, pertaining to electricity diversion in common areas, the following portion of the National Electric Code is enforceable by the Vermont Department of Labor and Industry, Fire Prevention Division:

*210-25 Common Area Branch Circuits Branch circuits in dwelling units shall supply only loads within that dwelling unit or loads associated only with that dwelling unit. Branch circuits required for the purpose of lighting, central alarm, signal,*

*communications, or other needs for public common areas of a two-family or multifamily dwelling shall not be supplied from equipment that supplies an individual dwelling unit.*

This means that a tenant should never have to pay for any common areas in/around the building they are living in. Tenants who experience this type of utility diversion are urged to deal with it as a habitability issue since it is considered to be a fire hazard (VTI has action sheets and form letters for this purpose).

Also, the Burlington Electric Department has specific rules that prohibit electricity diversion from taking place for Burlington tenants. Tenants can give them a call at (802) 658-0300 if they are experiencing this type of utility diversion.

- Burlington tenants also have specific protections when facing heat diversion. The Burlington Housing Code states:

*Sec. 18-87. Allocation of Heating Costs.*

*Where occupants are required to purchase either fuel for supplied heating appliance or to provide power to electric heaters, there shall be a single heating unit or set of units for the dwelling unit. Heating costs may not be allocated by square footage, power or fuel being used.*

This means that the tenant only has to pay for what he/she actually uses in their dwelling unit. Tenants are urged to deal with this situation as a code violation and give Burlington Code Enforcement a call at 863-9094.

If you have any questions about this action sheet, please contact Vermont Tenants, Inc. at 864-0099.

\*\*This document is intended to serve as a general guide to tenants and does not constitute a legal opinion nor is it legal advice regarding any specific situation.