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Q & A; When Access to Utilities Is Limited

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Q. *I rent the second-floor apartment of a two-family house. Both apartments are rented and the landlord lives out of state and has no registered agent for the property. The gas and electric meters, together with the electrical panels for both apartments, are on a side of the basement that only the first floor-tenant has access to.*

I have repeatedly requested access to my meters and electrical panel but have been told that the right is not granted in my lease. I am home all day, but keep getting estimated electric bills until I get hit with a whopper. Also, any time a circuit blows, I have to wait until someone shows up who can give me access to the panel. Is there any law or regulation that compels the landlord of a private dwelling to provide all tenants with access to meters and panels? . . . Margaret Douglas, Rego Park, N.Y.

A. **Adam Leitman Bailey**, a Manhattan real estate lawyer, said that a tenant's right to access to gas and electric meters depended on the terms of the lease agreement. "If the lease agreement does not provide a tenant with access rights or is silent on the matter, then a tenant will be unable to legally require the landlord to provide such access," **Mr. Bailey** said.

However, he said, such a legal right may be voluntarily negotiated between the parties. "In this case, it would probably be beneficial to both the landlord and the tenant to permit such access, as the landlord may likely be responsible for any nonaccess fees that may be imposed against the tenant," **Mr. Bailey** said. He added that the tenant could seek reimbursement for such fees -- if any were charged -- by filing a claim in the small claims division of Civil Court.

Moreover, he said, if nonworking circuits cause the tenant to be deprived of essential services and the apartment becomes uninhabitable, the landlord's failure to provide prompt access could result in a breach of the warranty of habitability.

"Such a breach provides a tenant with a cause of action against the landlord or a defense in any legal action filed by the landlord" if the tenant withholds rent, he said.