

Security Deposits



Table of Contents

| | |
|---|----|
| What is a Security Deposit? | 3 |
| Landlord's Obligations with Regard to a Security Deposit | 3 |
| Tenant's Obligations | 4 |
| When Can My Landlord Legally Keep Part of My Security Deposit? | 5 |
| When you left the apartment dirty or things were broken and need repair. | 5 |
| To Avoid Problems, Follow These Cleaning Suggestions: | 6 |
| When you left the apartment without paying all the rent due. | 7 |
| What to Do If Your Landlord Does Not Refund Your Money Within the 30-Day Period and Does Not Send You a Written Explanation About Why This Money Was Not Returned | 8 |
| What to Do if You Do Not Think Your Landlord Had Good Reason to Keep All or Part of Your Security Deposit | 9 |
| Filing a Lawsuit in Small Claims Court | 10 |
| Go to the Small Claims Division | 10 |
| Bring the following things | 10 |
| Ask the person behind the desk | 10 |
| The Court will set a hearing date | 11 |
| Your Landlord's Potential Responses | 11 |
| Prepare for the hearing | 12 |
| Attend the Hearing | 13 |
| To Avoid Problems in the Future | 14 |
| First Letter Requesting Return of Security Deposit | 15 |
| Second Letter Requesting Return of Security Deposit | 18 |
| Letter Requesting Return of Portion of Security Deposit Landlord Kept | 21 |

Security Deposits



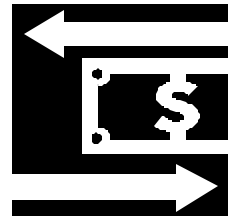
What is a Security Deposit?

Landlords often require security deposits before they will rent to any tenant. The security deposit is an amount of money the tenant must pay to the landlord before moving into the rental unit. The landlord keeps this money until the lease is finished just to make sure that the tenant does not break the lease or destroy the rental unit. No part of the deposit can be referred to as “nonrefundable.”

When you leave the apartment—either because your lease is up or you were evicted: if you leave the unit in good condition and are up-to-date on rent payments, your landlord must return the full amount of your security deposit. If you have not made all rental payments, damaged the apartment, or left it dirty, your landlord does not have to return the full amount of your deposit. However, your landlord may keep only that part of the deposit needed to pay for unpaid rent, repair damage caused by the tenant, or clean the mess left behind.

Landlord’s Obligations with Regard to a Security Deposit

Within 30 days after the end of the lease **and** the time you move out of the unit (including returning keys to landlord), your landlord is required to do either of the following things:



- 1) Return the full security deposit to you

OR

- 2) Return a portion of the security deposit to you with a written explanation of exactly what the unreturned money was used for. For example, the written explanation might state: total of \$50 withheld, \$30 to clean spot on living room carpet, and \$20 to fix broken door in bedroom.

Even if you receive the deposit and/or written explanation after this 30-day period has ended, it is not late, as long as your landlord **mailed** it **within the 30-day period**.

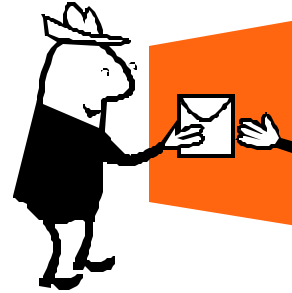


For example: Joe has a month-to-month lease. On January 1, he gives notice to his landlord Sue that he will move out. On February 1, Joe moves out of the apartment and returns the keys to Sue. The 30-day period for return of Joe's security deposit does not begin to run until February 2, and Sue must to put Joe's deposit in the mail on or before March 3.

Tenant's Obligations

- 1) Give your landlord notice that you are leaving
- 2) Give your landlord a forwarding address.
- 3) Clean the apartment and return the keys to your landlord.

Notice: Give notice to your landlord that you are leaving. To end your obligation to pay rent under a verbal or written lease, you must give your landlord notice of your intent to leave before you actually leave the apartment.



How many days in advance must I give notice? Read your lease to see if it tells you how far in advance you must give notice. If nothing is mentioned in the lease, the amount of notice you must give depends on how frequently you pay rent.

On a month-to-month lease or one-year lease where the rent is due on a specific date each month, you must give your landlord one month's notice (30 days) before leaving the apartment.

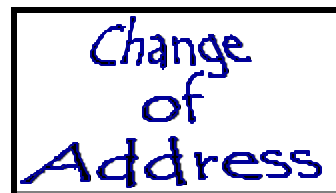
On a week-to-week lease, you only have to give one week's notice (seven days) before leaving the apartment.

On a day-by-day lease, you only have to give one day's notice.

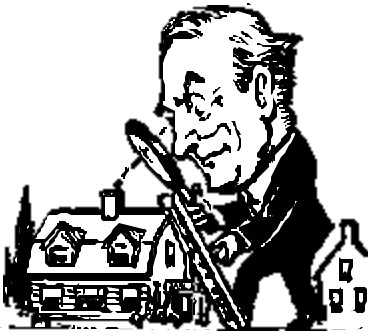
If you do not give the proper amount of notice, you may be responsible for paying additional rent.

For example: If you have a month-to-month lease where rent is due the first of every month and you want to move out of the apartment on May 1, you must give your landlord notice of your intent to move on April 1. If you do not give notice until April 2, your landlord can demand that you pay rent for the month of May.

- B) Within a reasonable amount of time after the end of the lease (before the 30-day period has ended), make sure that you give your landlord an address where your security deposit can be sent. ***Make sure you give this new address in writing.***



The address you give does not have to be the place where you plan to live, just a place where you will be able to receive mail.



When Can My Landlord Legally Keep Part of My Security Deposit?

- 1) **When you left the apartment dirty or things were broken and need repair.** Your landlord may subtract from your deposit the cost of any cleaning or repairs necessary to restore the apartment to the condition it was in when you moved in. Your landlord may not use your security deposit to fix “ordinary wear and tear.” Unfortunately, it’s not always easy to decide what is “ordinary wear and tear” from what is your responsibility to clean. Examples are listed in the following table:

| Ordinary Wear and Tear Landlord Must Pay For | Damage or Excessive Dirt Tenant Must Pay For |
|---|---|
|---|---|

- | | |
|---|---|
| <ul style="list-style-type: none">• Curtains faded by sun• Water-stained linoleum by shower• Minor marks on or nicks in wall• Dents in wall where door handle hits• Moderate dirt or spotting on carpet• Few small tack or nail holes in wall• Rug worn thin by normal use• Faded paint on bedroom wall• Dark patch of ingrained soil on wood floor | <ul style="list-style-type: none">• Cigarette burns on curtains or carpets• Broken tiles in bathroom• Large marks or holes in wall• Door off its hinges• Rips in carpet or stains from pets• Lots of holes/gouges in walls• Stains in rug caused by leaking fish tank• Water damage on wall from hanging plants• Water stains on wood floor caused by windows left open during rain storm |
|---|---|

In general, keep these following things in mind:

- 1) You should not be charged for dirt or damage that was present when you moved in.
- 2) You should not be charged for replacing an item when a repair would be sufficient.
- 3) The longer you have lived in a place, the more wear and tear can be expected on things like carpets, floors, and walls.
- 4) You should be charged a fair price for repairs and replacements.

To Avoid Problems, Follow These Cleaning Suggestions:



Kitchen

- 9 Clean and defrost refrigerator and freezer
- 9 Clean cupboards, sinks, tiles, woodwork and wall marks
- 9 Clean stove, hood and filter (under burners, controls, burner rings & drip pan)
- 9 Clean oven and broiler
- 9 Clean tables and chairs
- 9 Clean and wax floor or, if carpeted, shampoo carpet

Living Room, Family Room and Bedroom

- 9 Clean carpet and drapes
- 9 Clean fingerprints off switches and walls
- 9 Clean furniture and leave it undamaged
- 9 Clean windows on inside

Bathrooms

- 9 Clean tub, sink, toilet, and medicine cabinet; clean and wax floor, or if carpeted, shampoo carpet
- 9 Clean cupboards, counter, woodwork and wall marks
- 9 Clean windows on inside

Yard

- 9 Leave yard watered and weeded, lawn mowed, and all trash removed

- 2) **When you left the apartment without paying all the rent due.** Your landlord may deduct from your deposit the amount of any unpaid rent or unpaid utility charges you were responsible for under the lease. This unpaid rent claim usually happens in one of the following ways:



- p** You have been behind on the rent for months, you give notice of your intent to leave and leave as planned. In this situation, your landlord can deduct what you owe for past months rent from your security deposit.

For example: Ann has a month-to-month lease where she pays \$400 rent on the first of every month. She could not pay rent for April or May. On May 1, Ann gave notice of her intent to leave. She left the apartment on June 1. Her landlord Bob can deduct \$800 from Ann's security deposit to cover April and May's rent. If Ann only gave a

\$400 security deposit, Bob will keep that amount and can collect the remaining \$400 in another lawsuit.

- Ⓟ You give notice of your intent to leave and stay longer than you planned. In this situation, your landlord can deduct a portion of the next month's rent from your security deposit to pay for the additional days you stayed.

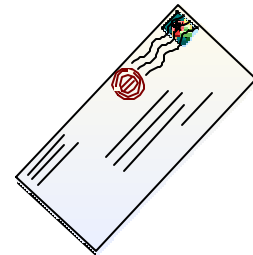
For example: Ann has a month-to-month lease where she pays rent on the first of every month. On March 1, she pays March's rent of \$600 to her landlord Bob and gives notice that she intends to leave on April 1. But because she can't get into her new place on time, Ann stays until April 5 without paying anything more. Bob can take 5/30 (5 days out of the 30 days in April) of April's rent (5/30 of \$600 = \$100) from Ann's security deposit.

- Ⓟ You lease your apartment on a month-to-month basis and leave as planned, yet you fail to give the right amount of notice of your intent to leave (30 days under Ohio law). In this situation, your landlord can deduct an additional month's rent from your security deposit.

For example: Ann pays rent on the first of every month. On June 20, Ann gives notice that she will leave on July 1. Since she only gave her landlord 10 days' notice, her landlord can deduct July's rent from her deposit.

What to Do If Your Landlord Does Not Refund Your Money Within the 30-Day Period and Does Not Send You a Written Explanation About Why This Money Was Not Returned

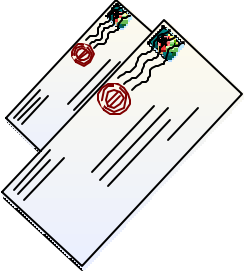
- Write your landlord a letter demanding:
 - (1) return of your deposit; or
 - (2) a written explanation as to why your deposit is not being returned and what it is being used to pay for.



Be sure the letter gives your landlord an address where he/she can send the deposit. Send the letter to your landlord by certified mail and request a return receipt. Keep a copy of the letter and the receipt showing the letter was delivered to your landlord. (This is important to

prove you sent the letter and your landlord received it). You can fill in the blanks on the *sample letter contained in this packet* (see page 15) or write your own.

- If your landlord still does not return your deposit, call your landlord and remind him/her about returning your deposit and again give your new address.



- If your landlord still does not respond, write a second letter, again demanding return of the full deposit and threatening to file a lawsuit in small claims court if you do not receive the money by a certain date. You can fill in the blanks on the *sample letter contained in this packet* (see page 18) or write your own.
- If your landlord still does not return your deposit, you should file a lawsuit in small claims court. [Follow the instructions provided in this packet on page 10.]

What to Do if You Do Not Think Your Landlord Had Good Reason to Keep All or Part of Your Security Deposit



- As soon as you receive the written explanation from your landlord, call or write your landlord and tell him/her why you think certain deductions should not have been made and ask for that money back. If this request was made by phone, be sure to follow up with a written letter. Send the letter to your landlord by certified mail and request a return receipt. Keep a copy of the letter and the receipt showing the letter was delivered to your landlord. You can fill in the blanks on the *sample letter contained in this packet* (see page 21) or write your own.
- If your landlord does not respond to this request or refuses to refund any of your deposit, you should file a lawsuit in small claims court. [Follow the instructions provided in this packet on page 10.]



Filing a Lawsuit in Small Claims Court

Step 1: Go to the Small Claims Division of the Municipal Court for the city where your landlord lives or the city where your apartment was located.

Step 2: Bring the following things with you to the courthouse:

- 1) the full name, address, and telephone number of your landlord;
- 2) evidence to support your claim, including:
 - (a) a copy of your signed lease or rental agreement;
 - (b) any written guideline your landlord provided on damage repair or security deposits; and
 - (c) photos you have taken of the apartment;
- 3) the names and addresses of all of your witnesses who are familiar with the apartment, saw it before you moved in or just after you left and who will testify that you left the apartment in a satisfactory condition;
- 4) copies of all letters you sent to your landlord regarding return of your security deposit;
- 5) enough cash to pay the filing fee (between \$10 and \$50).



Step 3: Ask the person behind the desk (the Clerk of Court) how you can file a Small Claims lawsuit, what is the filing fee, and how you can recover this fee (get this money back when and if you win the case). In most Small Claims Courts, the Clerk will have you fill out a form called a “Small Claims Information Sheet.” Fill in the form completely (printing neatly), return the form to the Clerk of Court, and pay the filing fee. You are the “Plaintiff” and your landlord is the “Defendant.” Under the heading “Complaint,” write the following information:

- 1) that your landlord is wrongfully withholding your security deposit and you are requesting “double damages” under Ohio Landlord/Tenant Law (this means you are asking the court to order your landlord to return your security deposit and award statutory damages in the amount of your security deposit);
- 2) the date when you moved out of the apartment and gave the keys to your landlord;

- 3) the date when the security deposit should have been returned to you (30 days after you moved out and returned the keys);
- 4) that your landlord has not returned any of your deposit despite your demands that he/she do so, and how many days or weeks late your landlord is in returning your deposit

– OR –

that your landlord has returned a portion of your deposit (state how much) and refuses to return the remaining money despite demands that you have made;

- 5) the reasons why you think your deposit should be returned, including:
 - that your rent payments have all been paid in full;
 - that you cleaned the apartment and left it in satisfactory condition without damage or more than usual wear and tear (as clean, if not cleaner, than it was when you moved in); and
 - any other reasons you think you should mention.

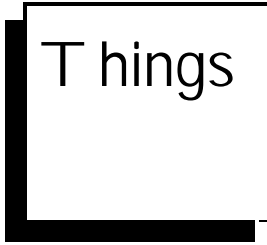
Step 4: The Court will set a hearing date (usually set five weeks after filing). Mark the date on your calendar. The Court will send your landlord a notice (summons) telling him/her that he/she is being sued by you and the date set for the hearing. Your landlord will have the chance to respond to your claims in writing.

***K** You Must
Come to Court*

Your Landlord’s Potential Responses:

- He/she may not respond at all in writing.
- He/she may file an “answer” – denying some or all of the information you stated in your “complaint.”
- He/she may file a “counterclaim” against you stating that you have not paid all your rent or should pay more money because your security deposit did not cover the cost of cleaning and/or repairs.

Check with the court at least one day before the hearing to make sure that the summons was served. If it was not served, the Court will change the date of the trial.



Step 5: Prepare for the hearing by doing the following things:

- 1) Contact your witnesses to make sure that they can come to court on the date of the hearing.
- 2) Collect any evidence you have, such as photographs showing the condition of the apartment when you moved in or out and copies of letters you sent to your landlord.
- 3) Practice what you plan to say at the hearing. A good way to present your case is to tell the judge what happened in the order of when it actually happened. Pretend you are telling a story. You will only be given a few minutes to present your case, so keep it short and focus only on important things.

For example: “My landlord, Slick Susie, hasn’t returned my \$750 security deposit and it has been almost two months since I moved out of her apartment at 1492 Dump Avenue. I have sent two letters to Slick Susie requesting that she return my deposit, but she did not respond to these letters at all. State law says she is supposed to return my deposit within 30 days, yet she has not done so. When I moved out, the apartment was clean, nothing was damaged, and my rent was paid in full.”

- 4) If you have the time, go to the courthouse a few days before the hearing and sit in on some court sessions. Get familiar with how things are done.

Step 6: Attend the Hearing.



Bring the following items with you to court:

- Ⓒ photographs showing the condition of the apartment when you moved out;
- Ⓒ witnesses — people who can testify to your version of what happened and the condition of your apartment;
- Ⓒ copies of any letters you sent to your landlord; and
- Ⓒ a copy of the complaint you filed and the answer, if any, filed by your landlord.

On the day of your hearing, get to the courthouse early and check for your courtroom. Tell the Clerk or Bailiff that you are present and sit down and wait until your case is called. When your case is called, stand at the large table in front of the room and present your case as you have practiced earlier. If you have photos, you can ask the Judge/Referee if you can show your photos as well. If you have witnesses, call them up to stand with you. Ask each witness to tell the court what they know about your case. The judge may interrupt you with questions. Answer these questions directly and politely.



After you present your case, your landlord will have an opportunity to tell his/her side of the story. Do not interrupt. Even if you think your landlord is lying or exaggerating, just remain calm. You will not look good to the judge if you appear openly angry.

After hearing from both you and your landlord, the judge/referee will decide who wins. The decision may come immediately or be mailed to you at a later date. If you win, you may ask the Clerk of Court how you may go about collecting your judgment. If you lose and feel that the judgment was incorrect, you can ask the Clerk of Court how to appeal or ask for reconsideration. Be sure to have the Clerk clearly state the actual steps, the costs, and the time limits.

For further information on what to do in Small Claims Court or how to collect a “judgment” (the money the court ordered your landlord to pay you), read the pamphlet in this packet called, *“Going to Small Claims Court.”*



To Avoid Problems in the Future

- 1) Make sure you get a written receipt for any deposit you pay.
- 2) Have your landlord walk around the apartment with you when you move in. Make a list describing the condition of things. Then when you move out, the two of you can go through the dwelling with this list again and note any changes.

Win or lose, pat yourself on the back.
You have successfully represented yourself!

Don't
the
contained
packet and
address
hear from
Tell us
was helpful
helpful



forget to fill out
evaluation form
at the end of this
send it to the
listed. We need to
you.
what you thought
or not so
about this packet.

First Letter Requesting
Return of
Security Deposit

Dear _____:

As you probably recall, I was your tenant at _____, Apt. # _____, in _____, Ohio. Before I moved in, I payed you a security deposit in the amount of _____. My tenancy ended on _____ and I left the rental premises on _____. Before I left the apartment, I cleaned and made repairs necessary to restore the apartment to the condition it was in when I moved in. I left owing no rent.

Ohio Revised Code §5321.16 states that within 30 days after termination of the rental agreement and the tenant's delivery of possession, the landlord must return all or a portion of the tenant's security deposit with a written explanation itemizing any deductions taken.

Thirty days have passed and I have not received my security deposit or a written explanation from you. Since I have no unpaid rent to account for and have returned the apartment to you in a satisfactory condition, without damage or more than usual wear and tear, I expect that my security deposit will be refunded in full. Please send me a check in the amount of _____ at the following address:

_____. I appreciate your cooperation on this matter.

Sincerely,

Second Letter Requesting
Return of
Security Deposit

Dear _____:

As you probably recall, I was your tenant at _____, Apt. # _____, in _____, Ohio. Before I moved in, I payed you a security deposit in the amount of _____. My tenancy ended on _____ and I left the rental premises on _____. Prior to my departure, I cleaned and made repairs necessary to restore the apartment to the condition it was in when I moved in. Since I have no unpaid rent to account for and left the apartment in satisfactory condition, without damage or more than usual wear and tear, I expected that my security deposit would be refunded in full.

On _____, you returned a portion of my security deposit in the amount of _____ and provided me a written explanation itemizing the deductions taken. The following deductions were inappropriate as the damage claimed existed when I moved into the

apartment or constitutes ordinary wear and tear, for which you, as the landlord, are responsible

for: _____

_____.

Please send a check for the remaining security deposit amount of _____ to the address above. If I do not receive this remaining money by _____ I will be forced to sue you in small claims court for _____, which is double the amount of money which you have wrongfully retained, as allowed under Ohio law. I sincerely hope that we can settle this matter outside of court.

Sincerely,

Letter Requesting Return
of Portion of Security Deposit
Landlord Kept

Dear _____:

As you probably recall, I was your tenant at _____, Apt. #
____, in _____, Ohio. Before I moved in, I payed you a security deposit
in the amount of _____. My tenancy ended on _____ and I left
the rental premises on _____. Prior to my departure, I cleaned and made
repairs necessary to restore the apartment to the condition it was in when I moved in. I left
owing no rent.

On _____, I sent you a letter asking that my deposit be refunded in
full and gave you my new address. I called you on _____ to remind you
about returning my deposit and again gave you my new address.

As of today, I have received neither my _____ security deposit nor any accounting from you for the money. Under Ohio law, (Ohio Revised Code §5321.16) I was entitled to receive my deposit, including an itemization of any deductions, 30 days after my tenancy ended -- that is, by _____. You are now over _____ days late.

If I do not receive my money by _____, I will regard your retention of my deposit as showing bad faith and will sue you in small claims court for _____, which is double the amount of my deposit, as allowed under Ohio law.

Please mail my deposit immediately to the above address.

Sincerely,

Did You Find This Packet Useful?

Please answer the following questions. We want to hear from you - what you found helpful or confusing about this packet. Your answers will allow us to make these packets more useful for others. Please answer these questions and mail to:

Ohio State Legal Services Association
861 North High St.
Columbus, Ohio 43215.

1. What was the name of the packet you were given?

2. How did you get this packet?

" legal aid

" court

" other _____

3. Was the information in this packet:

(check one)

" clear

" somewhat confusing

" totally confusing / could not understand

if you found the packet somewhat or totally confusing, what words or phrases were difficult to understand? _____

4. Was the information in this packet:

(check one)

" easy to read

" hard to read

5. The information in this packet:

(check one)

" answered *all* of my questions

" answered *some* of my questions

" did not answer any of my questions

if the packet did *not* answer *all* of your questions, what questions did you need answers for: _____

6. Will you save this packet to look at in the future?

- " no
- " yes

7. Did you fill out the forms or letters contained in the packet?

- " yes
- " no

If no, why not? _____

If you did not try to fill out the forms skip to Question 10 below.

8. If you filed the forms in this packet with the court, how did the staff in the clerk's office treat you when you presented the documents for filing?

- " they were polite
- " they were friendly
- " they were helpful
- " they would not let me file the documents
- " they told me I needed other forms. The forms I needed were: _____

9. Did the forms get you a hearing in court on your legal problem?

- " yes
- " no

if no, why not? _____

if yes, what happened when you went to court? _____

10. Did this packet help you in any way get your legal problem fixed?

- " yes
- " no

Please explain: _____

11. Do you have any suggestions for making this packet of materials easier to use?

