

# Tenant Rights: Security Deposits

## What is a Security Deposit?

A security deposit is money that a tenant pays to their landlord until they move out. It is meant to guarantee that all rent, bills, and damages are paid before the renter moves out. A security deposit may be called other names such as a damage deposit or a pet deposit, but they are all the same thing under the law: a security deposit.

Although the landlord holds this deposit while you are renting, it is still YOUR money. You are entitled to get it back from the landlord if you pay all of your obligations and leave the rental property in proper condition. The landlord cannot require you to waive or give up your right to receive the security deposit back before you have moved out of the property. In other words, there is no such thing in Colorado as a “non-refundable” deposit. However, you can agree to allow the landlord to use the security deposit to pay obligations that are owed during the time you are living in the property.

Learn more about Security Deposits by [watching this video](#) (produced by The Justice Center, Colorado Springs).

## When is the landlord allowed to deduct from or keep my security deposit?

A landlord can keep some of your security deposit if they suffered a financial damage that is your responsibility.

Some examples of cases where they can keep some of your deposit include:

- If you didn't pay all of the rent or other proper charges you owed the landlord
- If you did not pay all of the utilities
- If you damaged the rental unit beyond 'normal wear and tear'
- If you moved before your lease ended

### *Important reminders:*

- If your landlord has legitimate charges that are less than what your deposit is, you should get the remainder of your deposit back.
- If you did not have any damages, and paid all rent and utilities, you should get your full deposit back.

## **When do I get my deposit back?**

The landlord has thirty days, unless your lease allows more time (not more than 60 days) to return the deposit or give you an exact and specific list of deductions. You must receive your deposit or an itemized list within that time.

## **What can I do to make sure that I get my deposit back?**

### *Before you move in*

- Make and keep records the preexisting damages in the apartment. Take pictures or video and make a written list. The pictures/video must be dated. Make sure you have a witness present when you are making your records. If your landlord refuses to be the witness ask a friend or neighbor (someone unrelated to you).

### *While living in the apartment*

- Pay rent on time.
- Follow the rules and regulations of your lease.
- Keep the property in the same condition as before you moved in (excluding normal wear and tear).

### *When moving out of the apartment*

- Make sure you give your landlord proper notice if you plan to move out at the end of your lease. For example, your lease may require a tenant to give two months' notice that they are not renewing the lease. Make sure to read your lease carefully to check these requirements.
- Remove all your furniture and clean the apartment.

- Do a walk through with your landlord to document any damages;
  - If your landlord refuses to be your witness, ask someone unrelated to you;
  - Take pictures/video and make a written list of damages to document the condition of the apartment and make sure they are time stamped.
- It is usually best to leave the landlord a forwarding address so he/she can return the Security Deposit. If you don't, they will send it to your last known address and there can be a significant delay with forwarded mail.
- Ask the landlord to give you a letter stating the following: there are no damages (or ask him/her to provide a list of the specific damages), a written statement that you returned the keys, and a written statement that the landlord has your new address.
- File a change of address with the post office.

## **What do I do if my landlord does not give me back my security deposit?**

If your landlord does not return your security deposit or give you a list of reasons for withholding it within the time specified above (30 to 60 days, depending on the lease provisions), they lose any right to keep any part of the security deposit and you can sue them for three times what they wrongfully withheld. They can still sue you for money you owe or damages that you have caused, but they can no longer deduct it from your deposit.

You can write a seven-day demand letter, and, if the landlord does not send you the full amount of the security deposit within the seven days, you can sue them in court. The law requires that the 7-day demand letter be sent by first class mail. You can also send a copy by certified mail, return receipt requested, so you can show your landlord received it and when. Examples of demand letters will be posted here soon.

## **What do I do if my landlord claims they can keep my security deposit because of false damages?**

If your landlord sends you a list of the damages within the required time (30 to 60 days after you move out), and if you don't agree with the deductions, you can:

1) Call your landlord and try to negotiate.

If this does not work, you can:

2) Send a "seven-day demand letter" by regular and certified mail and an additional letter disputing the charges imposed by your landlord. Keep a copy of both letters for your records. Sending a letter by regular mail will give your landlord sufficient notice, even if he or she refuses the certified mail.

3) If the landlord does not send the wrongfully withheld Deposit within the time stated in the lease, you could sue in:

- Small Claims division of County, or
- County Court under the Simplified Civil Action procedure.
- You may want to talk to a lawyer who will take the case and charge you only if s/he can recover attorney's fees as allowed by law.

## **Things to consider when going to court for a security deposit:**

1) The landlord has the right to prove that you are responsible for damages to the unit beyond "normal wear and tear" or that you did not pay rent or other legitimate charges. The landlord may still sue for damages to the rental unit or money owed. However, if they have not complied with the Security Deposit law, any money owed to her/him should be offset against the triple damages you are entitled to.

2) The Court will expect you to show receipts or other evidence to prove that you paid rent, any other amounts you were required to pay, and the Security Deposit. Make sure to ask for a receipt each time you pay the rent!

3) If the Court finds that the landlord has wrongfully and willfully withheld the Deposit, you could possibly recover the amount of the Deposit times three. You could also be able to recover reasonable attorney's fees.

4) If you lose when going to Court, if there is a provision in the lease for the losing party to pay these fees, you may have to pay for the landlord's attorney fees. Read your lease to determine if you would have to pay fees if you lose in Court. This is important because a landlord will often settle with you rather than risk paying your

attorney's fees.

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