

# Can I Get My Security Deposit Back?

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## Who is this publication for?

Use this if you are a tenant who lives in the place you are renting from a private landlord.

**Important:** Do not use this publication if your living situation is one of the following:

- You are in a subsidized housing program,
- You live in a mobile home park where the landlord does not own the mobile home,
- You live in employer-provided housing, or
- You have a commercial lease.

If you live in any of these situations, get our publication on that type of housing at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org)

## What steps should I follow to recover my deposit?

We discuss these steps in detail starting in the next section.

- Before moving in, get a written rental agreement, condition check-in list, and a receipt for your deposit from the landlord, landlord's agent, or the manager.
- Before moving out, give proper written notice and your forwarding address to the landlord or manager.
- After cleaning, take pictures or video and have a witness inspect your residence and take notes.
- Move out. Then wait 14 days for a deposit refund and/or an itemized statement of any amount withheld.
- Send a demand letter for a deposit refund.
- File a claim in Small Claims Court.
- Get ready for the hearing if you have not settled the dispute.

- Go to the hearing.
- Collect the judgment.

The requirements we discuss in this publication are state law. They are in the Revised Code of Washington ([RCW](#)) [section 59.18.260 - 285](#).

## What can I do before I move in?

### Should I Get a Written Rental Agreement (Lease)?

If the landlord collects any deposit or fee, s/he must give you a written rental agreement. If the landlord did not give you a written rental agreement, s/he cannot collect any money from you besides rent and is liable for any deposits or fees s/he collects. There is no limit on the amount of money a landlord can collect for a deposit.

### What should the written Rental Agreement say?

It must tell you whether the money collected is a deposit or a non-refundable fee (for cleaning, screening or application, or other reasons). The following are the most common fees and deposits, and how they may be used:

- Damage deposit - to be applied towards any costs paid by the landlord to repair damage to your place done by you or others who were there with your permission. Cannot be used for things like nonpayment of rent.
- Security deposit - to be applied towards actual losses of the landlord that result from you violating the rental agreement, such as not paying rent or damaging the residence. The rental agreement must state when the landlord can withhold a security deposit. The landlord cannot hold a deposit for "normal wear and tear." That is determined based on how long you lived in the unit and what types of repairs are caused by normal use for that length of time.

- Cleaning fee - to be applied towards the expenses of cleaning the place after you move out. Some landlords ask for a nonrefundable cleaning fee. This means that no matter how clean you leave the place, the landlord will keep the fee.
- Last month's rent paid in advance - technically not a deposit. This is payment in advance of the rent for the last month you live in the place. Cannot be used for anything but payment of that month. Example: the landlord cannot keep it for damages. The landlord must refund this money if you already paid rent for that month and are moving out at the landlord's request or after you have given proper notice.
- Application or holding fee - paid by you to apply for a place or in return for the landlord's promise not to rent the place to another person before you move in. Usually, the landlord keeps a holding fee or deposit if you change your mind and do not move in. If you do move in, this fee must be applied towards your security deposit or first month's rent.

◆ Note: Effective 7/22/11, the landlord cannot keep any of the holding fee if the place fails a tenant-based rental assistance program inspection (example: Section 8 Voucher Choice). However, the landlord does not have to hold the unit any longer for that tenant. The tenant and the landlord can still negotiate to keep the unit open for the tenant.

If the rental agreement does not say whether the money is nonrefundable, the law says it is a refundable deposit. The rental agreement must also tell you in writing the name and address of the account where a deposit is held. You might

need this information if you have problems collecting your deposit from the landlord.

### Receipt for Deposit

The landlord must give you a written receipt for your deposit. Keep the receipt and your rental agreement in a safe place. You will need them if you have to go to court. Make an extra copy to leave with a friend or family member in case something happens to the original.

### Condition Check-in List

If your landlord collects a deposit, both you and the landlord must sign and date a written check-in list or statement describing the condition and cleanliness of the unit and its furnishings when you move in. The list should state all the damages in the unit **even if the landlord says s/he is going to fix them or says s/he will remember it and not charge you.**

You have the right to list all damages even if your landlord says not to worry about it. **DO NOT SIGN THE LIST UNTIL IT IS RIGHT.**

The checklist is very important. The landlord may try to blame you for damages that were there when you moved in. With the list, you can prove they were already there.

**Get a copy of this checklist for your records.** If you notice damage that you missed when you signed the list, ask the landlord to change the list to include the damages as soon as possible. If s/he refuses, or does not get around to it within a week, write a letter stating the newly found damages, that you did not make them, and that they should be added to the check-in list.

◆ New effective 7/22/11: You are entitled to get one free replacement copy of the checklist from the landlord if you lose yours.

You should also take pictures or video of damages which are major, which the landlord refused to put on the list, or which you did not notice when you filled the list out.

### If the Landlord did not Follow These Rules

If you paid a deposit you have to sue to collect, but did not get a check-in list, a written rental agreement, a statement of where the deposit is held, or anything else required by the law, tell the judge that your landlord should not be able to charge you for any damages that you disagree with. That is, argue that the landlord should not profit from breaking the law.

◆ New effective 7/22/11: If the landlord does not give you a checklist, you may sue to get your deposit back and also get costs plus attorneys fees.

### **What should I do before I move out?**

#### Do I have to give Written Notice that I am Moving Out?

Yes.

If you have a month-to-month rental agreement (nothing is in writing, and your rent is due once a month: we call that a month-to-month agreement), you must give your landlord at least 20 days' written notice before the end of the last month you want to stay. (See Sample Letter #1 at the end of this publication.) The notice does not have to be notarized. The 20 days must fall before the start of a new rental period (usually the first of the month or day you pay rent). In other words, if you want to move at the end of June, the landlord will have to get your notice no later than June 10<sup>th</sup>.

If you did not get the notice to the landlord by that time, you will owe rent through the end of July, unless the landlord gets another tenant sooner. You have no right to move out in the middle of a rental period unless your landlord agrees. (Get the agreement in writing.) If you do not give the right notice, or if you move in the middle of a rental period without permission, you may be liable for an additional month's rent.

If you have a rental agreement for a specific amount of time (example: six months or one year), you can move out without giving notice at the end of the rental agreement. It ends automatically, unless you renew it.

If you move out early, you could be liable to the landlord for rent covering the whole rental agreement period. You would not be liable for that rent if the landlord agrees to let you move out early (get the agreement in writing), or if you are moving out early pursuant to one of your rights as a tenant (example: in certain circumstances when the landlord refuses to make repairs after a written request).

Even if you move out early without the landlord's agreement or pursuant to a legal right, the landlord has a duty to try to rent your residence to another tenant. The landlord cannot charge you rent for time periods that a new tenant is in the residence.

For more about your right to move or how to give notice, see our [\*Your Rights as a Tenant in Washington\*](#) publication.

#### If You Did Not Give Enough Notice

Even if you did not give enough notice, you might still be able to get all or part of your deposit back. The landlord can only keep your deposit for the reasons listed in the rental agreement. A landlord can only use a damage deposit for damages, not for unpaid rent. A security deposit can be used for additional rent only if the rental agreement says that. Your landlord does have an obligation to try to re-rent your place, and cannot charge you rent for any period that a new tenant was living there.

#### Give the Landlord Your Forwarding Address in Writing

You should give your forwarding address when you send notice you are moving out. However, you can also do it separately. If your landlord does not have your forwarding address, s/he cannot send you your deposit or a statement explaining why s/he is withholding any of it.

You do not have to give the landlord your new address. You can give any address or P.O. Box where you know you will get a letter. If you use someone else's address, tell the landlord to send the deposit to you in care of that person so the Post Office delivers the letter.

Even if the landlord knows how to reach you, you must give your forwarding address **in writing** to protect yourself legally.

### Writing Letters and Keeping Copies

You should also keep copies of every letter that you send to or get from the landlord. Any letter you write should be dated, neatly written or typed, and should include your signature and address. If you do not keep copies and the landlord does not bring copies to court, it will be hard to prove you gave proper notice, left a forwarding address, or even paid a deposit in the first place.

To prove you sent your notice on time, send it certified mail, photocopy the envelope with the landlord's address and correct postage. Or have someone who could come to court as a witness mail or hand-deliver it for you. That person should write down the date, time, and place of delivery for future reference.

## **Is it enough to clean up?**

### Have Someone Inspect Your Residence

Ideally, your landlord should inspect the residence while you are present, and still living there. That way you can take care of any problems before the landlord does the move-out inspection. If this is not possible, ask a neighbor or friend who is willing to be a witness in court to inspect your place. You should ask the person inspecting your place to fill out a checklist similar to the one you got when you moved in.

### Take Pictures or Video

If you cannot get someone to inspect your residence, or if you know there will be disagreement even with a witness, take pictures

or video of your residence after you have cleaned.

## **What happens after I move out?**

The landlord has 14 days after you actually move out to either refund your entire deposit or give you an itemized statement telling you why s/he is withholding any portion of the deposit.

Your landlord must give this to you in person or mail it to your last known address. If you did not give your landlord a forwarding address, s/he should mail it to the unit you rented. For this reason, you should have the post office forward all your mail as well as giving the landlord a forwarding address.

## **What if I do not get anything, or I disagree with what I get?**

Your landlord must return all of your deposit, or give you a letter stating why not. If you do not get anything from the landlord, or if you disagree with what you get, you will need to send a demand letter. (See [Sample Letter #2](#) and [Sample Letter #3](#) at the end of this publication.) If you want help creating your demand letter, you may use our [Demand for Return of Security Deposit Interactive Interview](#) at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org) to create one. If you got neither your deposit nor a letter stating why you did not get a refund, you are entitled to a complete refund of your deposit. And if you can prove that the landlord intentionally withheld your deposit, you may ask the judge for double the amount of your deposit.

If you do get a statement, but disagree with the cause of the damage or amount for repair, write to the landlord stating why you disagree.

The landlord cannot charge an unreasonable amount for any repair, and cannot charge at all for normal wear and tear like a burned out light bulb or an appliance that merely wore out. The landlord also cannot charge you for damages that were already there when you moved in, or damages that were caused by a vandal or other

person besides you, your family, or your guests.

If your landlord is keeping the deposit because you did not give enough notice before moving out, figure out whether you might be entitled to get some of the deposit back. Example: if the landlord rented the apartment to someone else three days after you moved out, figure out how much your rent is per day (monthly amount divided by number of days in that month), and argue that you should be refunded rent for the number of days a new tenant was in the residence. If the deposit was a damage deposit, the landlord cannot use any of it for unpaid rent.

If you disagree for any reason, send a letter to your landlord by certified mail, return receipt requested, and by regular mail. Always keep a copy for yourself.

### **What if my landlord still does not pay after I send my letter?**

If your landlord ignores your letter, or you cannot settle the matter between you, you can file a lawsuit in either the District or Superior Court. But most people will find it makes more sense to handle the case without a lawyer in Small Claims Court (a division of District Court). This is a lot faster and less expensive. Read our publication titled [Small Claims Court](#) if you decide to sue there. It explains the general process of Small Claims Court, and how to collect if you win.

### **How do I file a claim?**

**First:** Do not sue your landlord if you owe him/her as much or more money than s/he owes you for your deposit. If you do sue your landlord, s/he can make a counter-claim for any money that s/he feels you owe him/her.

**Note:** If the landlord did not give you an itemized statement within 14 days, s/he cannot counter-claim or ask for damages if you file an action. However, the landlord could still file a separate action against you.

◆ Example: you file a lawsuit to get back your \$300 deposit. Your landlord files a counterclaim for \$600 for rent s/he claims you did not pay for two months. If you win, you get a judgment against your landlord for \$300. If your landlord wins his/her counterclaim, however, s/he gets a judgment against you for \$600. You end up owing your landlord \$300.

If you do sue your landlord in Small Claims Court, the [Small Claims Court](#) publication will tell you more about how to file a claim and present your case in court.

If you sue your landlord and lose, you may have to pay your landlord's court costs. When you name the party you are suing, called the "defendant," name both the owner and/or the manager or person to whom you pay rent. If you cannot find out who owns the residence, try calling a title insurance company. (Look in the yellow pages.) Ask for the name and address of the owner of the property you are renting. Or try going to the county assessor's office for help in finding out who pays taxes on the property (usually the owner).

### **How do I get ready for court?**

Be sure you have at least two copies of all the papers and documents you will need for trial.

Among other things, you should have:

- receipts
- move-in checklist
- canceled checks
- notices, letters
- your rental agreement
- any other documents showing you do not owe the money.

If you are going to have witnesses, or use witness statements, be sure the witnesses will be in court. Most judges will not consider statements from witnesses who are not in court to be questioned. If you plan to question your witnesses, tell them ahead of time what you will ask. Write down a list of important points to make and papers to give the judge, as well as the RCW citation supporting your point. (See Sample Court Statements on the last page.)

## **My landlord went through foreclosure. Can I still get my deposit back?**

If the foreclosed-upon landlord did not refund your deposit or transfer it to a new owner after the sale, the old landlord is liable to you for up to twice the amount of your deposit, plus attorneys' fees.

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**This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, August 2011.**

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**Sample Letter #1**  
*Intent to Move Out*

March 1, 2011

Joe Landlord  
123 Maple Lane  
Dollar, WA 98999

Certified Mail #

Dear Mr. Landlord:

I will be moving out of my apartment at 123 Tenant Road, #1, Dollar, Washington on March 31, 2011. Please forward my deposit to 456 Tenants' Haven Drive, Dollar, Washington 98999.

Sincerely,

Ima Tenant

**Sample Letter #2**

*Sample Letter if You Received Nothing From The Landlord*

April 15, 2011

Joe Landlord  
123 Maple Lane  
Dollar, WA 98999

Certified Mail #

Dear Mr. Landlord:

As you know, I moved out of my apartment at 123 Tenant Road #1, Dollar, Washington on March 31, 2011.

Although I left the place clean, I still have not received my \$300 deposit. As I am sure you know, the Washington Residential Landlord-Tenant Act requires you to either refund my entire deposit or give me an itemized statement of why it's being held within 14 days after I move.

The Act also states that if a landlord doesn't send the statement within 14 days the tenant is entitled to a complete refund. Also, if you intentionally failed to return my deposit or send me the statement, I can ask the court for double the amount of my deposit.

Please mail my \$300 deposit to me at my new address: 456 Tenant Haven Drive, Dollar, WA 98999. If I do not receive your check within one week, I may file a lawsuit to recover my deposit. If this becomes necessary and I win, you may have to pay the costs of this lawsuit and attorney's fees.

Sincerely,

Ima Tenant

**Sample Letter #3**

*Sample Demand Letter if You Disagree with The Landlord's Statement*

April 15, 2011

Joe Landlord  
123 Maple Lane  
Dollar, WA 98999

Certified Mail #

Dear Mr. Landlord:

Today I received your itemized statement explaining why you were withholding \$100 of my deposit. In reviewing your statement, I noticed you were charging me to repair a window that was broken when I moved in. You also appear to be charging me to repair a burner on the stove which simply wore out. As I am sure you're aware, under the Washington Residential Landlord-Tenant Act you may not withhold my deposit because of damages that were there before I moved in or because of normal wear and tear. The Act also provides that if I'm forced to sue you to recover my deposit, and I win, you may also have to pay court costs and attorney's fees.

Please mail the remainder of my deposit to me at my new address: 456 Tenant Haven Drive, Dollar, WA 98999. If I do not receive your check within one week, I may file a lawsuit to recover my deposit.

Sincerely,

Ima Tenant

## Sample Court Statements

### *Sample Court Statement for Not Receiving Anything*

Your Honor, on November 3, 2010, I rented an apartment from the defendant, Joe Landlord, and gave him a \$300 deposit. Here are copies of my rental agreement, the written check-in list we signed and my deposit receipt. On March 1, 2011, I sent my landlord notice that I was moving and gave him a forwarding address. Here are copies of my letter and the envelope. On March 31, 2011, I moved. I waited 14 days. When I didn't get back my deposit or an itemized statement I sent my landlord a demand letter. Here is a copy of my letter and the receipt showing he received it. Unfortunately, my landlord still hasn't returned my deposit, so I filed this lawsuit. Here is a copy of the Sheriff's affidavit showing that he served by landlord with my claim more than five days before trial. Under RCW 59.18.280, I feel I am entitled to double the amount of my deposit because my landlord intentionally failed to refund my deposit or provide me with an itemized statement. I also feel I should receive my \$10 filing fee and the \$25 fee the sheriff charged me to serve Mr. Landlord. I'd be glad to answer any questions you have.

### *Sample Court Statement for Pre-existing Damages and Excessive Charges*

Your Honor, on November 3, 2010, I rented an apartment from the defendant, Joe Landlord, and gave him a \$300 deposit. Here are copies of my rental agreement, the written check-in list we signed and my deposit receipt. On March 1, 2011, I sent my landlord notice that I was moving and gave him a forwarding address. Here are copies of my letter and the envelope. On March 31, 2011, I moved. A few days later, my landlord sent me a statement saying I wouldn't get any of my deposit back. Here is a copy of the statement. As you can see, my landlord is charging me for a broken window and replacement of the screen door. I'm not responsible for the broken window. As my neighbor George Goodbody can explain, a stranger broke the window. Here is a copy of the report I filed with the police. I also feel my landlord is charging me too much money to repair the screen door my son damaged. Here are two written estimates I got from building repair stores stating they would repair the door for far less money. When I got the statement from my landlord, I sent him a demand letter explaining my position. He ignored it, so I filed this lawsuit. Here is a copy of the letter. I feel I am entitled to \$250 of my \$300 deposit. I should also get my filing fee and service costs.