

Security Deposits



What is a Security Deposit?

A security deposit is a payment required by a landlord from a tenant. It is paid to cover the possible expense of any repairs which the landlord may have make after a tenant moves out for damages to the rental unit greater than normal "wear and tear."

Pursuant to Missouri law, a security deposit charge can be no more than two month's rent. When you pay your security deposit, get a signed receipt from your landlord. In most cases, your landlord may not charge a non-refundable security deposit. A landlord can charge a nonrefundable pet deposit.

How do I get my Security Deposit Back When I Move Out?

After you move out, your landlord can keep your security deposit for the cost to repair any damage to the unit you caused or if you still owe money due under the lease. The landlord cannot charge you for repairing ordinary "wear and tear." Ordinary wear and tear means those repairs that need to be made just because someone has lived in the home. Unless the landlord agrees, you cannot use the security deposit for the last month's rent.

Examples of ordinary wear and tear may include:

- Replacing old carpet.
- Repainting walls that have not been painted for several years.
- Replacement of shoddy materials such as cheap non-stain resistant carpet.

Examples of damage that are not ordinary wear and tear:

- Replacing carpet damaged by cigarette burns.
- Repainting walls after patching holes you put in the wall.

When you move out, remove all of your belongings and clean the unit. Take photos of your home when you move out to show that no damage was done by you. Tell your landlord you want to be present at the walk-thru inspection. The landlord must notify you of the date and time for the inspection, schedule it at a reasonable time, and allow you to attend a walk-thru inspection. Within 30 days after you move out, your landlord must either return the full amount of your security deposit or provide you with a written, itemized list of any amounts it withholds.

If the landlord does not return the security deposit or give you an itemized list of the reasons your security deposit was withheld, demand the return of your security deposit. Your demand should be in writing and include the following:

- Date of the notice,
- Landlord's full name and address,
- 30 days has passed since you moved,
- A demand that your landlord return your security deposit, and
- An address at which the landlord can mail the security deposit refund to you.

Mail the notice by regular and certified mail, return receipt requested. This is so your landlord cannot say your demand letter was not sent. Keep a photocopy of your demand letter. If your landlord still does not return your deposit, or provide you with a list of damages to explain the use of the deposit, you have the legal right to sue your landlord in Small Claims Court.

In your suit, you may sue your landlord for two times the amount of your deposit. To initiate this suit, you will need to go to the courthouse and fill out the appropriate forms. You will also need to pay a filing fee. You may contact the clerk's office at your courthouse in advance to find out the amount you will owe to file your suit. Should you have any questions, the staff at the courthouse will assist you in filing the appropriate forms and instruct you how to fill out these forms properly.

When you go to court you should bring the following with you:

- Proof that you paid a deposit and the amount of the deposit.
- Proof of how much you paid to your landlord during your tenancy, such as your rent receipts.
- Proof of the condition in which you left the unit, such as the photographs you took.
- Proof of the date you vacated the unit and gave up possession of the unit.
- Proof that you requested the deposit back, such as your demand letter.

Prepared by Legal Services of Eastern Missouri, Inc. (LSEM). LSEM provides this educational information as a public service. It is not legal advice. Sometimes the laws change. Always consult a lawyer, if you can, before taking legal action. The mission of LSEM is to provide high-quality civil legal assistance and equal access to justice for low-income people in Eastern Missouri.

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Table of Contents

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