

What is a security deposit?

- Preventative measures
- Moving in
- Moving out
- Deductions from deposits
- Legal remedies
- The strongly worded letter
- Small claims court

What is a Security Deposit?

In any rental situation, your landlord will probably ask you to pay an amount of money above your first month's rent to cover any unpaid rent or damages you might cause during your tenancy. According to Ohio law, this "security deposit" is officially defined as "any deposit of money or property to secure performance by the tenant under a rental agreement." A landlord is permitted to request a security deposit of any size, but in general they are equal to one month's rent. If your landlord asks for more than a single month's rent and keeps your deposit for more than six months, the landlord must pay you interest on the amount that exceeds one month's rent.

Preventative Measures

The law is very specific about what a landlord may withhold from your security deposit. Unfortunately, some landlords keep this money illegally. They are counting on the fact that you will move from town or will be too busy and discouraged to pursue the matter. Early preparation is the best way to make sure that this does not happen to you.

back to top

Moving In

When moving into your apartment or house, you should take the following steps:

1. Inspect the residence with someone over the age of 18 who can be your witness. Try to find an unbiased witness, someone other than a friend,

relative, or previous tenant of the residence. If possible, invite your landlord for the inspection as well.

2. Make a written list of all defects. Student Legal Services, Inc. has rental inspection forms that include all the items that you should check both inside and outside the residence. Give a copy to your landlord and keep a copy for your own records. Ask the landlord for a written statement that all the broken items that you list be fixed.

3. Take pictures or video tape all the defects in the apartment. During the year, pay rent on time and keep your receipts. Never pay with cash. Additionally, you should always inform your landlord of any items that break immediately. Make no more than one oral request for these repairs and make a copy of all written correspondence with your landlord.

back to top

Moving Out

First and foremost, make sure you give your landlord the appropriate written notice of your intent to move out. 30 days is typical, but be sure to check your lease for variations.

When you move out you should make sure that you take the following steps:

1. Make sure the residence is clean, including ovens and refrigerators.
2. Remove all of your property and leave the residence in a condition suitable for a new tenant to move in.
3. Upon moving out, go through the apartment again with a witness (ideally, the same one as before) and, if possible, with your landlord.
4. Make another list of damages and take pictures or video tape again.
5. Leave your keys with the landlord. If you give your keys to anyone else, including the new tenant, you might be charged for lock changes.

6. Ohio law requires you to send your landlord a forwarding address in writing. This step is legally very important if you need to take your landlord to court later, because it allows you to sue for double damages, or twice the amount of your security deposit. SLS, Inc. has a sample of this type of letter on file. You should also consider sending the letter by certified mail, so that your landlord cannot deny receiving it.

7. You must take all of these steps to get the full protection of security deposit law.

back to top

Deductions from Deposits

Upon receiving your forwarding address, a landlord has 30 days to either return your deposit or give you an itemized list of what was withheld. If part or all of your security deposit was kept, the itemized list must be a detailed list of exactly what was withheld. Some landlords fail to provide any account of fees that are withheld or use vague terms like "cleaning fees" or "misc. costs." You have a right to know exactly what your security deposit is being spent on.

Here are some common reasons that landlords cite for keeping your security deposit:

1. Cleaning fees - According to Ohio Law, tenants are not responsible for normal "wear and tear" on a residence. You cannot be held accountable for cleaning costs unless the cleaning required is excessive or constitutes some sort of damage. For example, you cannot be charged for carpet cleaning, unless you damaged the carpet. Damage usually means there was a substantial change in the condition of the premises. Also, the landlord cannot keep money claiming that cleaning will be done. Talk to the tenants who moved in after you to see if cleaning was actually done.

2. Unpaid rent/Late fees - A landlord can keep any amount of rent you have not paid. Keep receipts, cancelled checks, and **NEVER PAY WITH CASH !** Some leases have a clause that allows them to charge fees if your rent payment was late. However, you cannot be charged late fees if your rent was mailed on time and the postal service was slow. If a large amount of late

fees has been withheld from your deposit, you might be able to argue that these costs are punitive and therefore illegitimate.

3. Damage to the apartment/house - A landlord can rightfully withhold any money for damages that tenants cause to the apartment or house. This does not include items like roof repair, broken plumbing (unless tenants broke it), peeling paint/wallpaper, or previous damage. If you fail to tell your landlord immediately about a situation that causes additional damage, a leaking roof that leads to wood rotting for example, you may be held accountable. As with cleaning fees, a landlord must actually carry out the repairs that your money is being kept for. If repairs are not made and your money is kept, you are entitled to sue. When estimates are used to determine how much money will be kept, tenants should assess how reasonable these estimates are. In general, it does not cost \$5,000 to replace a door hinge!

4. Missing keys - You must return all the keys you were issued at the beginning of your tenancy to your landlord, otherwise your money can be kept. Check your lease to see if there is a specific number of keys listed.

5. Supplies - Occasionally, a landlord will attempt to keep deposit money for items like light bulbs or batteries for smoke detectors. Unless your lease specifically states that tenants are required to supply these items, the landlord is responsible.

6. Waste Disposal - Tenants are responsible for the removal or cleanup of excessive amounts of waste left behind at the end of a tenancy. This includes furniture that a tenant left behind or trash outside in the yard. Your landlord should be explicit in telling you what "trash" you are being charged to remove.

back to top

Legal Remedies

If your deposit has been taken unfairly, you should not be discouraged; getting it back is easier than you might think. Tenants who feel that part or all of their security deposit has been improperly withheld have several ways to resolve such a dispute. Ohio Law allows tenants to sue their landlord for the return of the security deposit and possibly recover

1. the original amount of the security deposit

2. additional damages equal to the amount of the deposit which was wrongfully withheld
3. reasonable attorney's fees. This law can serve as a powerful incentive for a landlord to return a security deposit without going to trial.

The Strongly Worded Letter

The first step in getting back your security deposit is both effective and easy to do on your own. Some landlords will keep your security deposit hoping that you will do nothing, but will return or negotiate with you if threatened with legal action. First, try writing your landlord a letter explaining which parts of your security deposit you believe were wrongly withheld. Do not exaggerate your claim or ask that money that was properly withheld be returned; use your best, honest judgment of what you are owed. You should remind the landlord in this letter that Ohio Revised Code allows you to recover twice the amount he has wrongfully withheld. Tell your landlord to contact you immediately, and give a contact address or phone number, so that you can remedy the situation. You should make it clear that if the problem is not resolved to your satisfaction, you might be forced to pursue the matter in court. Send your letter by registered mail, keep a copy for yourself, and also send a copy to BGSU Student Legal Services, Inc. Inform your landlord in the letter that you have contacted the BGSU Student Legal Services, Inc regarding the matter.

(Check out our **Tenant Letters** section.)

back to top

Small Claims Court

If your letter is ignored or your landlord refuses to return to you the amount you think your owed, the next step will be to pursue the matter in court. If the amount of money in question is less than \$3,000, you will be able to sue your landlord in small claims court. Call Student Legal Services, Inc. and set up an appointment to see one of our lawyers and bring all your correspondence with your landlord to the meeting. Try to find out the names of the current tenants in case you need them as witnesses.

Preparing for Trial

Student Legal Services, Inc. can help you to plan the specifics of your case or may give you actual representation in court.

Here are some general tips on what you can do to prepare for trial:

1. Be organized.
2. Review in your mind what you will say in court.
3. Tell your story in the order in which events occurred and stick to the facts.
4. Bring with you all the materials that will support your case such as receipts, bills, canceled checks, warranties, and any other evidence relative to your dispute.

Know your rights!

As you can see, getting your security deposit back is not as hard as you might think. Some Athens landlords have grown complacent with the fact that students will not pursue matters regarding security deposits. By taking action and empowering yourself, you will improve the situation for generations of students to come.

back to top