



ASSISTANCE

How to Get Your Security Deposit Back

Find more easy-to-read legal information at www.ptla.org

You called our office because you need help getting your landlord to return your security deposit. We do not have enough lawyers in our office to help everyone. Instead, we are sending you this self-help packet. It tells you about your rights and explains how to get your security deposit back.

Does my landlord have to return my security deposit to me?

If you owe back rent or you have damaged your apartment, your landlord may deduct those costs from your security deposit. She can also deduct for storing or disposing of your unclaimed property. If you owe your landlord more than the amount of your security deposit, he may sue you in court. On the other hand, if you owe him less, he must return all or part of your security deposit.

Can my landlord keep my security deposit for any type of damage?

No. Your landlord cannot keep your security deposit for “normal wear and tear.” Examples of “normal wear and tear” are a worn carpet, chipped paint, worn finish on a wood floor, and faded or dingy paint.

The landlord can deduct the cost of fixing damages which are beyond “normal wear and tear”. Examples of these damages are kid’s crayon art on the walls, broken windows, holes in the walls, or leaving trash or other items that have to be thrown away. If you made the apartment so dirty that it is

unhealthy or unsafe, the landlord can deduct for the cost of making it habitable again. Cleaning costs are a common issue. You may avoid arguments over return of your deposit by leaving the place clean.

If your apartment is damaged by a storm, a fire or a vandal, tell your landlord right away. He cannot charge you for the repairs if you or your guests did not cause the damage. It is also a good idea to make a police report.

What kind of notice do I have to give if I am moving?

If you are a tenant at will (no written lease), you must give your landlord a 30-day written notice. The notice period should end on a rent day. You and your landlord can agree to a shorter notice period, if you agree in writing.

If you have a lease, read it to see what kind of notice you must give.

If you do not give the right notice, your landlord may try to charge you for time after you move. If you have a lease, she may try to charge you rent for the rest of the lease term. Again, this will depend on what the lease says.

Your landlord must try to re-rent your apartment as soon as she knows you have moved out. If she re-rents your apartment right away, she can only charge you for the time you were there and the time it took her to find a new tenant. For example, your rent



is \$500 a month and you moved out on the 10th day of the month. Your landlord re-rents the apartment on the 15th of the month. You owe \$250, or half a month's rent. Your landlord may also charge you reasonable expenses for re-renting the apartment if you did not give the right notice.

When should I get my security deposit back?

Your landlord must either return all of your security deposit or send you a letter telling you why he is not giving some or all of it back. He must send this letter to your "last known address". Give your landlord your new address or make sure that your mail is being forwarded so that you will get the letter.

If you are a tenant at will (no written lease), your landlord must give back the deposit or send you the letter within 21 days after you move out and return the key. **If you have a lease**, check to see what it says. If there is nothing in the lease about this, or if the lease gives more than 30 days, then your landlord has 30 days to return the deposit or send the letter. This is the legal limit.

What if my landlord doesn't send a refund or a letter?

If, after the 21 or 30 days, the landlord has not sent you a letter or refund, you need to follow certain steps to protect your rights. The steps you should follow are:

- Fill out the Request for Return of Security Deposit form. (A form is attached.)

- Send it to your former landlord. **Use Certified Mail; Return Receipt Requested.**
- **Keep a photocopy of the form for yourself.**
- Hold on to the **Return Receipt** when it comes back in the mail.
- Wait 7 days (from the date he receives it) for your landlord to respond to the notice.

NOTE: If your landlord did not sign for the first mailing, send another copy by regular mail and wait 10 days (3 days for delivery plus the 7 day notice period).

What if my landlord still won't return my deposit?

If your landlord doesn't refund the deposit **within the seven day notice period**, you can:

- Sue your landlord yourself in Small Claims Court. (See Small Claims section below.)
- or**
- Try to get a **private attorney** to take your case on "**contingency**." Contingency means that the lawyer will only get paid if you win your case. The judge can order your landlord to pay for your attorney fees where the landlord kept your deposit "wrongfully."

How do I sue In Small Claims Court?

Your local **Maine District Court** has all of the forms you will need to start a Small Claims action against your landlord. They also have an **booklet** about how Small Claims Court works. Just ask the Court



Clerk for the forms and the booklet. Small Claims Court is for ordinary people. If you cannot pay the filing fee, tell the clerk that you need to file an "Application to Proceed Without Payment of Fees" and an "Indigency Affidavit." The clerk will give you forms to fill out. These ask for financial information, to show that you cannot afford the filing fee.

Ask the court to award you **double** the amount of your security deposit. The Court may award you double the amount if it finds that your landlord acted "wrongfully" by not returning your security deposit after you sent him the Request for Return of Security Deposit Form. Also ask for your court costs.

IMPORTANT NOTE: The Maine statute that sets out these rules does not apply if you rent in a building with 5 or fewer units **and** the landlord lives there. You still have similar rights to get your security deposit back. And you can sue in small claims court for return of your deposit. But the court is not required to order your landlord to return twice the deposit amount plus payment of your lawyer fees. Instead, the judge would order whatever he thought was fair, based on your agreement with your landlord.

What if my landlord sends me a letter, but takes too much out of my security deposit?

If your landlord sends you a letter on time that tells you that he is keeping some or all of your security deposit, but you think that amount is too high, you can still sue the landlord in small claims court. However, you may not get double damages.

If I sue my landlord, can my landlord sue me?

Keep in mind before you sue that if you owe your landlord money, he will probably bring these claims against you to counter your claim for return of the deposit. So, if you owe him more than he owes you, suing in court may not be a good idea. On the other hand, if the landlord sues you, you can "counterclaim" for return of your deposit and for any other money he owes you.

The Maine laws about security deposits are in Title 14 of the Maine Revised Statutes Annotated, beginning with section 6031. You can find a link to "Maine Statutes" from our website at www.ptla.org/cliented.htm

Prepared by Pine Tree Legal Assistance
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Notice

Sometimes the laws change. We cannot promise that this information is always up-to-date and correct. If the date above is not this year, call us to see if there is an update.

We provide this information as a public service. It is not legal advice. By sending this to you, we are not acting as your lawyer. Always consult a lawyer, if you can, before taking legal action.

REQUEST FOR RETURN OF SECURITY DEPOSIT
14 M.R.S.A. §6031 et seq.

TO: _____

FROM: _____

As you know, my tenancy in the house/apartment that I rented from you at:

was terminated on _____ 20__.

As of today you have not returned \$ _____ of my security deposit which totaled \$ _____, nor have you sent me a written notice explaining why you have not returned my entire security deposit to me.

Therefore, in accordance with the provisions of Maine State Law at 14 M.R.S.A. §6033 and 6034, I am advising you that if a FULL REFUND of my Security Deposit is not made to me within SEVEN (7) DAYS of your receipt of this notice, I intend to bring a law suit against you to recover my Security Deposit, as well as any additional Damages, Costs and Attorneys Fees that the law allows.

Payment should be sent to me at: _____

Signed: _____

Date: _____ 20__