

RENTER'S HANDBOOK ON SECURITY DEPOSITS

Most landlords require renters to pay a “security deposit” when they move in to a new rental. A security deposit is a refundable deposit paid by a tenant to a landlord so that the landlord can make sure that the tenant follows the rental agreement and leaves the rental in a similar condition when the move out. When a tenant moves out, the deposit can be used by the landlord to pay any unpaid rent and fees, and to pay for any damage caused by the tenant beyond normal wear and tear. Any remaining amount must be returned to the tenant and the landlord must provide a written accounting for any amount that was not returned.

This packet contains information about limitations on a landlord’s right to collect a security deposit, steps you can take to increase your chances of having a security deposit returned when you move out, and how to respond if your landlord keeps your security deposit or does not provide a written accounting to show why your entire security deposit was not returned.

It is **very important** throughout the process to **keep records of your written communications** with your landlord.

This packet contains the following:

- Information about landlords’ and tenants’ rights regarding security deposits at the time of move-in, during the tenancy, and at the time of move-out
- Citations to the law: “ORS” means “Oregon Revised Statutes”
- Step-by-step guide to getting your security deposit back
- Unit Inventory and Condition Report to note the condition of the rental at move-in and move-out
- Letters to use in communicating with your landlord about your security deposit

SECURITY DEPOSITS AT MOVE-IN

- The landlord must provide a written statement of the amount of the rent and fees, and the amount of the security deposit, as well as conditions for returning or keeping the security deposit, when you sign your rental agreement.
- The amount of any security deposit you pay, including any money that will be treated as “last month’s rent,” must be listed in the rental agreement and your landlord must give you a receipt. *ORS 90.300(3)*
- Your landlord can charge you an extra pet deposit if you have pets in your rental, but cannot charge an extra deposit for service animals or companion animals required by a tenant with a disability. *ORS 90.300(4)*

SECURITY DEPOSITS DURING THE TENANCY

- Your landlord cannot make you pay an additional security deposit during the first year of your tenancy, except if you change your rental agreement, such as getting a new pet. *ORS 90.300(5)(a)*
- If your landlord requires a new or increased security deposit after the first year of your tenancy, they must give you at least three months to pay the new or increased deposit. *ORS 90.300(5)(b)*
- If your landlord sells your rental housing while you are still living in it, the new landlord is responsible for returning your security deposit to you when you move out, even if the original landlord did not give your security deposit to the new landlord.
- ***A note for survivors of domestic violence/sexual assault/stalking:*** Your landlord cannot charge you an additional deposit because your abuser is removed as a tenant from the rental agreement. However, if you end your lease early because of domestic violence but other tenants (including your abuser) remain in the rental housing, you are not entitled to get your security deposit back until all tenants have moved out of the rental. *ORS 90.445(2)*

SECURITY DEPOSITS AT MOVE-OUT

- Your landlord must return your security deposit and provide written accounting for any amount withheld from your security deposit within 31 days of the end of your tenancy. *ORS 90.300(12)-(13)*
- When you move out, your landlord may claim money from your security deposit only for:
 - Unpaid rent and fees
 - Repairs beyond “ordinary wear and tear,” billed at a reasonable hourly rate, even if the landlord does not actually have the repairs done or does the repairs herself
 - Cleaning billed at a reasonable hourly rate, even if the landlord does the cleaning himself
 - Loss of potential rental income while cleaning and repairs are performed
 - Carpet cleaning in some instances (see next page for details)

ORS 90.300(7)
- The law does not define “ordinary wear and tear,” but you should think about the reasonable expected wear and tear on a property over time when used with reasonable care. For example, minor marks on the wall would be probably be considered normal wear and tear, but large holes or marks are considered excessive damage. Small stains or spotting on the carpet may be ordinary wear and tear, but rips, burns, pet urine, or other large stains would probably be excessive damage.
- When thinking about whether damage is ordinary wear and tear, refer to the Depreciation Table in this guide (Form B). This table suggests how long items should last under ordinary conditions. For example, the table says that carpets should last 5-9 years. If the carpets in your rental unit have not been replaced for 8 years when you move out, it is reasonable that you should not be charged for damage to the carpet because it has outlived its useful life.
- Your landlord cannot charge you for a replacement that is an upgrade. For example, if you damage the refrigerator in your unit and it needs to be replaced, your landlord can only charge you the cost of a comparable replacement, not a nicer model.
- Carpet cleaning has special rules that apply: your landlord can only charge you for carpet cleaning if (1) the carpet was cleaned or replaced before you moved in; (2) the rental agreement says that the landlord can deduct the cost of carpet cleaning whether you clean the carpet when you move out or not; and (3) a carpet cleaning or shampooing machine is used to clean the carpets. *ORS 90.300(7)(c)(A)*
- ***A note for survivors of domestic violence/sexual assault/stalking:*** Your landlord cannot charge you for damage related to domestic violence, sexual assault, or stalking. If requested, you must provide verification to your landlord that you are a victim of abuse. *ORS 90.325(3)(b)*

TIPS FOR GETTING YOUR SECURITY DEPOSIT BACK

- Use the “Inventory and Condition Report” (Form A) to note the condition of the rental. When you move in and again when you move out, complete the form and send a copy to your landlord. Even better, ask them to do a walk through with you and sign the form at the end of the walk through. (Note: Your landlord is not required to do a walk through with you, but many will if asked. If your landlord won’t do a walk through with you, bring a friend who can be a witness for you if your landlord keeps your security deposit.)
- Take photographs or video of the condition of the rental at move in and move out. Make sure they are dated. You can email your photos and videos to yourself right after you take them as a way of proving the date. This will be your best evidence in case your landlord does not return your security deposit.
- If you are ending the tenancy, make sure that you have given proper notice (usually 30 days written notice).
- Make sure your rental is clean and empty when you move out. Wipe down surfaces and sweep or vacuum floors. You are not required to hire professional cleaners, clean the carpets, or paint.
- Turn your keys in to the landlord or property manager on time. If you will be moving out after hours or aren’t sure how to return your keys, contact your landlord ahead of time to make a plan.
- Your previous landlord will send the security deposit and written accounting to your last known address, so make sure that you provide a forwarding address to your landlord when you move out and file a change of address form at the post office.

GETTING YOUR DEPOSIT BACK: STEP BY STEP

If 31 days have passed since you moved out of your rental and you have not received your security deposit or a written accounting, or if you think that your prior landlord wrongfully claimed some of your security deposit, the instructions on the following pages will help guide you through the process to claim your deposit.

The most important thing to remember when trying to get your landlord to return your security deposit is to put all communication to your landlord **in writing and keep a copy**.

IF 31 DAYS HAVE PASSED AND YOU HAVEN'T HEARD ANYTHING:

➤ Step One: Letter A

After 31 days, you should have received your security deposit and/or a written accounting for any amount that the landlord kept. If you have not received anything from your previous landlord, you should send them **Letter A**. Letter A is a demand that your landlord return your deposit or send a written accounting.

Either give the letter to your landlord personally or send it through regular first class mail – **NOT certified or registered mail**, as those can take much longer to arrive. Be sure to **keep a copy** of the letter.

➤ Step Two: Legal Action

If your landlord still doesn't send your deposit or an accounting after sending Letter A, you should file a claim in Small Claims Court. In your claim, you can ask for twice the amount of the security deposit. A claim must be filed within one year of when the landlord was supposed to return your deposit.

- For more information about Small Claims Court, including how to complete court forms, how to file your case, and what to expect from the process, go to www.oregonrentersrights.org or contact Legal Aid Services of Oregon at (503) 224-4086 and ask for a copy of our Renter's Handbook on Small Claims Court.
- Gather your evidence in preparation for court: photos and videos from when you moved in and moved out, your Unit Inventory and Condition Report (Form A), your rental agreement, your security deposit receipt, your termination/move-out notice, and a copy of Letter A.
- If you have witnesses who were with you during the move-in or move-out walk through and want to testify on your behalf, they must come to court with you. A written statement from your witness will not be considered by the court.

IF YOU WANT TO DISPUTE THE AMOUNT THAT YOUR LANDLORD WITHHELD:

➤ Step One: Letter B

If you received a written accounting from your landlord explaining what amounts were taken from the security deposit and you think that your landlord claimed more than they should have, send your landlord **Letter B**. Letter B is a demand for more information about the charges. You should only include the sections of Letter B that apply to your situation, based on what your landlord put in the written accounting.

If your landlord has returned part of your security deposit, you can accept the money and still dispute the remaining charges.

Either give the letter to your landlord personally or send it through regular first class mail – NOT certified or registered mail, as those can take much longer to arrive. Be sure to **keep a copy** of the letter.

➤ Step Two: Gather Documentation

If you think that your landlord charged an hourly rate that is unreasonable, get estimates from different professionals, like cleaning services, plumbers, painters, or carpenters, and check the prices of materials at stores in the area. Take notes or photos to help you document this information to use as evidence.

➤ Step Three: Legal Action

If your landlord doesn't respond to Letter B, or you still believe that your landlord withheld more than they reasonably should have, you should file a claim in Small Claims Court. In your claim, you can ask for twice the amount that was wrongfully withheld. A claim must be filed within one year of when the landlord was supposed to return your deposit.

- For more information about Small Claims Court, including how to complete court forms, how to file your case, and what to expect from the process, go to # or contact Legal Aid Services of Oregon at (503) 224-4086 and ask for a copy of our Small Claims Court Handbook.
- Gather your evidence in preparation for court: photos and videos from when you moved in and moved out, your Unit Inventory and Condition Report (Form A), your rental agreement, your security deposit receipt, your termination/move-out notice, and a copy of Letter A.
- If you have witnesses who were with you during the move-in or move-out walk through and want to testify on your behalf, they must come to court with you. A written statement from your witness will not be considered by the court.

Form A: INVENTORY AND CONDITION REPORT

Use this report to record the contents and condition of your place when you move in and before moving out. If you mark anything as being dirty or damaged, describe it fully on an additional sheet. Use the blank before each item to indicate how many there are. Ask the landlord to sign your copy.

		Dirty		Damaged				Dirty		Damaged	
		Yes	No	Yes	No			Yes	No	Yes	No
LIVING ROOM											
Couch											
Chair											
Table											
Lamp											
Light fixture											
Window treatment											
Carpet or Rug											
Floor											
Ceiling											
Walls											
BEDROOM											
Bed											
Dresser											
Night Stand											
Light fixture											
Window treatment											
Carpet or Rug											
Floor											
Ceiling											
Walls											
KITCHEN											
Stove											
Oven											
Refrigerator											
Sink (Hot & cold water)											
Dishwasher											
Cabinets & drawers											
Counter tops											
Light Fixture											
Window treatment											
Carpet or Rug											
Floor											
Ceiling											
Walls											
BATHROOM											
Towel rack											
Tissue holder											
Cabinets											
Mirror											
Counter top											
Sink (Hot & cold water)											
Shower											
Tub											
Toilet											
Light fixture											
Ceiling fan											
Carpet or Rug											
Floor											
Ceiling											
Walls											
MISCELLANEOUS											
Door key											
Windows											
Window screens											
Mailbox											
Thermostat											
Other:											
Other:											
Other:											
Do all the windows work? _____											
Does the heat work properly? _____											
_____ Tenant Signature										_____ Date	
_____ Witness Signature										_____ Date	
_____ Landlord Signature										_____ Date	

Form B: DEPRECIATION TABLE

Type of Property	General Depreciation System	Alternative Depreciation System
Appliances, such as: Stoves and Refrigerators	5 years	5 years
Carpets	5 years	9 years
Furniture used in rental property	5 years	9 years
Any property that does not have a class life and that has not been designated by law as being in any other class	7 years	10 years
Shrubbery	15 years	20 years
Fences	15 years	20 years
Residential rental property (buildings or structures) and structural components such as furnaces, waterpipes, venting, etc.	27.5 years	20 years
Additions and improvements, such as a new roof	The same recovery period as that of the property to which the addition or improvement is made, determined as if the property were placed in service at the same time as the addition or improvement.	40 years

Letter A

Date: _____

Dear Landlord:

By law I am entitled to receive either a full refund of my security deposit or a written accounting of what the deposit was used for within 31 days from when I moved out. I moved out on _____ [date]. I have not received the deposit or the accounting.

Please return my deposit within 10 days from the date of this letter. If I do not hear from you by _____ [10 days from date of letter], I will file a claim in Small Claims Court. The law (ORS 90.300) says that I am entitled to twice the amount wrongfully withheld.

Sincerely,

[Tenant name]

[Tenant address]

Letter B

Date: _____

Dear Landlord:

As you know, I moved out on _____ [date]. You sent me an accounting for damages that you claim were caused during my tenancy. ORS 90.300(7)(a)(B) states that a landlord may not charge tenants for damage caused by ordinary wear and tear. The following items listed on your accounting constitute ordinary wear and tear:

[List items and amounts you were charged]

The following items listed on your accounting were left in the same condition at move out as when I moved in:

[List items and amounts you were charged]

Because these items were damaged in the ordinary course of wear and tear during the ____ [number of years] years of my tenancy, or because these repairs are not my responsibility, Oregon law does not permit you to charge me for them. In addition, because I was a tenant for many years, it is unlawful to charge me the full replacement cost of any items. Finally, some of the damage you have claimed is the result of your own failure to make repairs to the rental. (See attached documents.)

Please remove the disputed charges from my accounting and refund the wrongfully retained deposit to me within 10 days.

Sincerely,

[Tenant name]

[Tenant address]