



## General Information About Security Deposits

### **Does my landlord have the right to keep my deposit?**

Maybe. A landlord can keep your security deposit only in certain situations. There is a state law that explains when and how you can get your deposit back.

### **What should I do to get my security deposit back?**

You should leave the home in good condition and give your landlord your forwarding address in writing. As soon as you move out, send or give a letter to the landlord (by hand or certified mail, if possible). It should include a mailing address where the landlord can reach you. Make sure the letter is dated and keep a copy for your own records.

### **Why do I need to give my landlord a mailing address in writing?**

If you do not give your landlord written notice of your forwarding address, the landlord is not required to send your deposit or a letter about why he or she is keeping your deposit. You cannot sue for the return of your deposit if you don't give the landlord a forwarding address in writing. The address does not have to be where you live, just where you can get mail. **It's best to give your forwarding address as soon as you move out.**

### **When does the landlord have to return my deposit?**

The landlord must send you a letter within 45 days of when your lease ends and you move out (unless your lease says the landlord must send it in less than 45 days). The letter must either return your deposit or give you a list of any deductions the landlord claims. **The 45 days does not start to run until you give the landlord a forwarding address in writing.**

### **Can the landlord return only part of my deposit?**

Yes. A landlord can send you a partial refund. However, the landlord must still send a letter within the 45 day deadline (or earlier as stated in the lease). The letter must list any deductions the landlord made from your deposit.

## **Can a landlord keep my deposit for any reason?**

Under Indiana law, the landlord can keep all or some of your security deposit for only the following reasons:

- Unpaid rent;
- Damages to the home that are more than ordinary wear and tear; or
- Unpaid utility charges the lease required you to pay.

If your lease says the landlord can keep your deposit for other reasons, that part of the lease may not be enforced.

## **What if my landlord does not return my deposit or a list of damages within the deadline?**

If 45 days (or fewer stated in your lease) have passed since you moved out and you gave your landlord a forwarding address in writing, you can sue the landlord for the full amount of the deposit and reasonable attorney's fees. You can file a lawsuit in the small claims court where the property is located.

**If the landlord does not mail you the itemized list of damages in time, the law says the landlord has agreed that no damages are due (except unpaid rent).** This can save tenants a lot of money by limiting what the landlord can claim.

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

Remove all your property and clean everything. Take pictures and have witnesses inspect your home right before you leave. You can ask the landlord to walk through the home with you and see if you agree on any damages. Return your keys after you move out. Bring your pictures and witnesses if you go to court.

## **If my landlord has filed an eviction against me, will I lose my deposit?**

Not necessarily. If you give a landlord your forwarding address in writing, the landlord is still required to send you a list of any deductions from your deposit. If the landlord does not do this, you can counterclaim against the landlord for the full amount of the deposit.

One problem is that damage hearings are often set less than 45 days from the date of evictions. Landlords often wait until the damage hearing to give you a list of damages or deductions. If you disagree with items on the list, you can ask the court to set the hearing for another time to allow you a chance to prepare a defense. It's best to be prepared with photos and any witnesses, however, if the court does not postpone the hearing.

**Do I need an attorney to sue the landlord for my security deposit?**

No. You can file your case without an attorney in small claims court. The law allows the court to award attorney fees and court costs, so you may be able to get a lawyer to help you.

rev 09/16

 Security Deposit Brochure

---

Printed: October 23, 2021

<http://www.indianalegalservices.org/node/306/general-information-about-security-deposits>

©Indiana Legal Services, Inc