

IS YOUR LANDLORD REFUSING TO RETURN YOUR SECURITY DEPOSIT?

Prepared by Jacksonville Area Legal Aid, Inc. ("JALA")
a United Way agency



The information provided in this document is not a substitute for legal advice. The laws described here may change without notice.

WHEN DOES A LANDLORD HAVE TO RETURN A TENANT'S SECURITY DEPOSIT?

A landlord is not required to return a tenant's security deposit before the tenant moves out of the rental home. After the tenant moves out, the landlord has 15 days to return the tenant's security deposit if there are no claims to be made against it. If the landlord intends to make a claim against the security deposit, the landlord has 30 days to notify the tenant of the claim.

WHAT KIND OF NOTICE MUST THE LANDLORD PROVIDE WHEN MAKING A CLAIM AGAINST THE SECURITY DEPOSIT?

If the landlord intends to make a claim against the security deposit, the landlord has 30 days to send a written notice by certified mail to the tenant's last known address. The notice must state the landlord's intention to impose a claim on the security deposit, the amount of the claim, and the reason for the claim.

When moving out, it is very important for the tenant to give the landlord a forwarding address and/or to request the Postal Service to forward the tenant's mail to a new address. Otherwise, the tenant is not likely to receive any notices sent by the landlord.

WHAT HAPPENS IF THE LANDLORD DOES NOT PROVIDE A NOTICE OF CLAIM WITHIN 30 DAYS?

If the landlord does not mail a notice of a claim against the security deposit within 30 days after the tenant moves out, the landlord loses the right to make a claim against the security deposit and must return the entire security deposit to the tenant. However, the landlord still may sue the tenant for any damage to the property caused by the tenant. (The landlord may file a "counterclaim" against the tenant if the tenant sues for a refund of the security deposit, or the landlord may file his/her own lawsuit against the tenant.)

WHAT HAPPENS IF THE LANDLORD DOES PROVIDE A NOTICE OF CLAIM WITHIN 30 DAYS?

If the tenant receives a notice of the landlord's claim against the security deposit, the tenant has 15 days to object to the claim. The tenant may object to the reason for the claim and/or the amount of the claim. The tenant's objection should be in writing and should be sent to the landlord by certified mail. The tenant should keep a copy of the landlord's notice and a copy of the tenant's written objection.

If the tenant objects to the claim within 15 days, the landlord must hold the security deposit until the dispute is resolved.

If the tenant does not object to the claim within 15 days, the landlord may deduct the claim from the security deposit and must return the remaining security deposit, if any, to the tenant. However, the tenant still may sue the landlord for a refund of the entire security deposit or the amount deducted by the landlord.

*** IMPORTANT: TENANTS WHO DO NOT HAVE A WRITTEN LEASE OR WHO MOVE OUT BEFORE THE END OF A WRITTEN LEASE ***

A tenant who does not have a written lease or who is moving out of a rental home before the expiration (end) of a written lease must notify the landlord in writing at least seven (7) days before moving out. The notice must include an address where the tenant may be reached. The tenant may personally deliver the notice to the landlord or send the notice to the landlord by certified mail. If the tenant does not give this notice before moving out, the landlord is not required to notify the tenant of a claim against the security deposit. However, the tenant does not lose the right to sue for a refund of the security deposit.

A tenant who moves out before the expiration (end) of a written lease should talk with an attorney before suing the landlord for a refund of the security deposit. The tenant might be liable to the landlord for an "early lease termination" fee, and the amount of that fee might be larger than the security deposit. If that is the case, it might not be wise for the tenant to sue.

HOW CAN I RESOLVE A DISPUTE OVER THE SECURITY DEPOSIT?

If the tenant has disputed the landlord's claim against the security deposit (or if the landlord failed to give notice of a claim within 30 days but still has not returned the security deposit), the tenant should first talk with the landlord and try to resolve the dispute informally. If the dispute is not resolved, either party may file a lawsuit. If a lawsuit is filed, the losing party may be ordered to pay the winning party's court costs and attorney's fees.

To sue for a security deposit in the amount of \$5,000 or less, the tenant would file a lawsuit against the landlord in Small Claims Court. JALA has a separate pamphlet about Small Claims Court and information about a free Small Claims Court clinic that is offered once each month. There is a fee to file a lawsuit, and the clerk of the court will have a list of the applicable filing fees. However, you may request to have the filing fee waived if you cannot afford to pay it. The clerk of the court can provide

you with the extra form you would need to fill out in order to ask the court's permission to file a lawsuit without paying the filing fee.

WHAT STEPS CAN I TAKE TO AVOID A FALSE CLAIM AGAINST MY SECURITY DEPOSIT?

The tenant should always keep a copy of his/her written lease (if there is one), as well as a receipt or other proof of payment of the security deposit. If the rental home is already damaged when the tenant moves in, the tenant should take pictures of the damage and point it out to the landlord. If any damage is done to the rental home or if any repairs are made to the rental home while the tenant is living there, the tenant should take pictures and keep documentation of those things. When moving out, the tenant should take pictures of the condition of the rental home, especially any areas where there might be a claim of damage. (It is best to take the pictures after the tenant has moved his/her belongings out and cleaned the rental home.) All of these things should help the tenant to prove his/her case if there is a dispute over the security deposit and a lawsuit is filed.

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You may contact JALA's main office in downtown Jacksonville by calling (904) 356-8371.

If you are a qualified individual with disability, you may request a reasonable accommodation / auxiliary aid at no charge to you by contacting the JALA ADA Coordinator at (904) 353-1320 (V/TTY) or (904) 245-1121 (Video Phone).