



# IS YOUR LANDLORD REFUSING TO RETURN YOUR SECURITY DEPOSIT?

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

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A landlord is not required to return a tenant's security deposit before the tenant moves out of the rental. 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 GIVE WHEN MAKING A CLAIM AGAINST THE SECURITY DEPOSIT?

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If the landlord intends to make a claim against your security deposit, the landlord has 30 days to send you a written notice by certified mail to your 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 you to give the landlord a forwarding address and/or to request that the post office forward your mail to a new address. Otherwise, you are 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?

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If the landlord does not mail a notice of a claim against the security deposit within 30 days after you move out, the landlord loses the right to make a claim against the security deposit and must return the entire security deposit to you. However, the landlord still may sue you for any damage to the property the landlord thinks you caused. The landlord may file a "counterclaim" against you if you sue the landlord for a refund of the security deposit, or the landlord may file their own lawsuit against you.

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

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If you receive a notice of the landlord's claim against the security deposit, you have 15 days to object to the claim. You may object to the reasons for the claim and/or the amount of the claim. Your objection must be in writing and must be sent to the landlord by certified mail. You should keep a copy of the landlord's notice and a copy of your written objection.

If you object to the claim within 15 days, the landlord must hold the security deposit until the dispute is resolved. If you do not object to the claim within 15 days, the landlord may deduct the claim from your security deposit and must return the remaining security deposit, if any, to you. However, you 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**

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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?**

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If you have 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), you 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 \$8,000 or less, you file a lawsuit against the landlord in Small Claims Court. 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?**

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

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This fact sheet is for general education only it is not intended to be used to solve individual problems. If you have specific questions contact a lawyer. The laws described here may change without notice. You may find additional resources at: <https://www.jaxlegalaid.org/get-help/self-help/pamphlets-videos/>. Revised December 2023.

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