

Recovering Your Security Deposit

Overview of Steps to Recover Your Deposit

1. Before moving in, you should get a written rental agreement, condition check-in list, and a receipt for your deposit from the landlord, landlord's agent, or the manager.
2. Before moving out, give proper written notice and give your forwarding address to the landlord or manager.
3. After cleaning, take pictures or video and have a witness inspect your residence and take notes.
4. Move out and wait 14 days for a deposit refund and/or an itemized statement of any amount withheld.
5. Send a demand letter for a deposit refund.
6. File a claim in Small Claims Court.
7. Prepare for the hearing if the dispute has not been settled.
8. Go to the hearing.
9. Collect the judgment.

The requirements discussed in this publication are found in the Revised Code of Washington ([RCW](#)) [section 59.18.260 - 285](#) (attached).

What should I do before I move in?

Get a Rental Agreement (Lease) in Writing

If the landlord collects any deposit or fee, s/he is required to give you a written rental agreement. If the landlord did not give you

a written rental agreement, s/he cannot collect any money from you besides rent. There is no limit on the amount of money a landlord can collect for a deposit.

What should be in the Rental Agreement?

The rental agreement must tell you whether the money collected is a deposit or a non-refundable fee (for cleaning, screening or application, or other reasons). The following are the most common fees and deposits, and how they may be used:

- Damage deposit - to be applied towards any costs paid by the landlord to repair damage to your place done by you or others who were there with your permission. Cannot be used for things like nonpayment of rent.
- Security deposit - to be applied towards actual losses of the landlord that result from you violating the rental agreement, such as not paying rent or damaging the residence. The rental agreement must state when the landlord can withhold a security deposit. A deposit cannot be held for normal wear and tear. Normal wear and tear is determined based on how long you lived in the unit and what types of repairs are caused by normal use for that length of time. There is no law that defines normal wear and tear.
- Cleaning fee - to be applied towards the expenses of cleaning the place after you move out. Some landlords request a nonrefundable cleaning fee. This means that no matter how clean you leave the place, the landlord will keep the fee.
- Last month's rent paid in advance - technically not a deposit but payment in advance of the rent for the last month

you live in the place. Cannot be used for anything but payment of that month. For example, the landlord cannot keep it for damages. This money must be refunded to you if you already paid rent for that month. Some landlords will only return this money to you after you move out and require you to still pay your last month's rent. You should talk to your landlord to find out the policy for your apartment.

- Application fee - to be paid by you to apply for a place. The landlord can only charge you the actual amount that this costs.
- Holding fee – This fee is so landlord will not rent the place to another person before you move in. Usually, the landlord keeps a holding fee if you change your mind and do not move in. If you do move in, this fee must be applied towards your security deposit or first month's rent.

If the rental agreement does not specify whether the money is a deposit or a fee, the law considers it to be a refundable deposit. The rental agreement must also tell you in writing the name and address of the account where a deposit is held. You might need this information if you have problems collecting your deposit from the landlord. The landlord gets to keep any interest earned on the deposit.

Get a Receipt for Deposit

The landlord is required to give you a written receipt for your deposit. Keep the receipt and your rental agreement in a safe place because you will need them if you have to go to court. You may even want to make an extra copy to leave with a friend or family member in case something happens to the original.

Sign a Condition Check-in List

If your landlord collects a deposit, both you and the landlord must sign and date a written check-in list or statement describing the condition and cleanliness of the unit and its furnishings when you move in. Your landlord must give you the check list at the beginning of your tenancy. The list should reflect all the damages in the unit **even if the landlord says s/he is going to fix them or says s/he will remember it and not charge you.** You have the right to list all damages even if your landlord says not to worry about it; **DO NOT SIGN THE LIST UNTIL IT IS RIGHT.** The checklist is very important because the landlord may try to blame you for damages that were there when you moved in. With the list, you can prove they were already there. **Get a copy of this checklist for your records.** If you discover damages you did not notice when you signed the list, ask the landlord to change the list to include the damages as soon as possible. If s/he refuses or does not get around to it within a week, write a letter to your landlord stating the newly discovered damages, that you did not make them, and that they should be added to the check-in list. Make a copy of the letter for your records.

You may also want to take pictures or video of damages which are major, which the landlord refused to put on the list, or which you did not notice when you filled the list out.

What if the landlord did not follow these rules?

If you paid a deposit but your landlord did not give you a written check-in list, a written rental agreement, or a statement of where the deposit is held, you should tell the judge that your landlord should not be able to keep your deposit.

What should I do before I move out?

Give Written Notice You are Moving Out

If you have a month-to-month rental agreement (if nothing is in writing, and your rent is due once a month, then you are considered to have a month-to-month agreement), you must give your landlord at least 20 days' written notice before the end of the last month you want to stay (see Sample Letter #1 attached). The 20 days must fall before the start of a new rental period (usually the first of the month or day you pay rent). In other words, if you want to move at the end of June, the landlord will have to get your notice no later than June 10th. If you did not get the notice to the landlord by that time, you would owe rent through the end of July unless the landlord gets another tenant sooner. The notice does not have to be notarized. You do not have the right to move out in the middle of a rental period unless your landlord agrees (get the agreement in writing). If you do not give the right notice, or if you move in the middle of a rental period without permission, you may be liable for an additional month's rent.

If you have a rental agreement for a specific amount of time (for example, six months or one year), you can move out without giving notice at the end of the rental agreement since it ends automatically unless you renew it. If you move out early, you could be liable to the landlord for rent covering the whole rental agreement period. You would not be liable for that rent if the landlord agrees to let you move out early (get the agreement in writing), or if you are moving out early pursuant to one of your rights as a tenant (for example, in certain circumstances when the landlord refuses to make repairs after a written request). Even if you move out early without the landlord's

agreement or pursuant to a legal right, the landlord has a duty to try to rent your residence to another tenant. The landlord cannot charge you rent for time periods that a new tenant is in the residence.

For more information about your right to move or how to give notice, see our Tenants' Rights publication.

What if I didn't give enough notice?

Even if you didn't give enough notice, you might still be able to get all or part of your deposit back. Your deposit can be kept only for reasons listed in the rental agreement. A damage deposit can only be used for damages, not for unpaid rent. A security deposit can be used for additional rent only if the rental agreement says that. Your landlord does have an obligation to try to re-rent your place, and cannot charge you rent for any period that a new tenant was living there.

Give the Landlord Your Forwarding Address in Writing

It is best to give your forwarding address when you send notice you are moving out. However, you can do it separately. If your landlord does not have your forwarding address, s/he cannot send you your deposit or a statement explaining why any of it is being withheld. You do not have to give the landlord your new address, just any address or P.O. Box where you know you will get a letter. If you use someone else's address, it is best to tell the landlord to send the deposit to you in care of that person so the Post Office delivers the letter. Even if the landlord knows how to reach you, you must give your forwarding address **in writing** to protect yourself legally.

Writing Letters and Keeping Copies

In addition to your rental agreement and deposit receipt, you should keep copies of every letter that you send to or get from the

landlord. Any letter you write should be dated, neatly written or typed, and should include your signature and address. If you don't keep copies and the landlord does not bring copies to court, it will be hard to prove you gave proper notice, left a forwarding address, or even paid a deposit in the first place. To prove you sent your notice on time, send it certified mail, photocopy the envelope with the landlord's address and correct postage, or have someone who could come to court as a witness mail or hand-deliver it for you, writing down the date, time, and place of delivery for future reference.

What should I do after I clean?

Having Someone Inspect Your Residence

Ideally, your landlord should inspect the residence while you are present, and still living there. That way you can take care of any problems before the landlord does the move-out inspection. If this is not possible, ask a neighbor or friend who would be willing to be a witness in court to inspect your place. The person inspecting your place should be asked to fill out a checklist similar to the one you got when you moved in. The law does not require your landlord to fill out a move-out check list.

Taking Pictures or Video

If you cannot get someone to inspect your residence, or if you know there will be disagreement even with a witness, take pictures or video of your residence after you have cleaned.

Move Out and Wait 14 Days

The landlord has 14 days after you actually move out to either refund your entire deposit or give you an itemized statement telling you why any portion is being withheld.

Your landlord must give this to you in person or mail it to your last known address. If you did not give your landlord a forwarding address, s/he should mail it to the unit you rented. For this reason, you should have the post office forward all your mail in addition to giving the landlord a forwarding address. If your landlord does not return your deposit or give you the written statement within the 14 day period, then he cannot keep your deposit. If you can prove that the landlord intentionally withheld your deposit, you may ask the judge for double the amount of your deposit. If you do get a statement, but disagree with the cause of the damage or amount for repair, you should write to the landlord stating why you disagree.

What if I get nothing or disagree with the amount I got?

If you do not get anything from the landlord, or if you disagree with the amount you get back, you will need to send a demand letter (see Sample Letter #2 and Sample Letter #3 attached to this publication). Sometimes, your landlord will try to charge you extra. The landlord cannot charge an unreasonable amount for any repair, and cannot charge at all for normal wear and tear like a burned out light bulb or an appliance that wore out. The landlord also can't charge you for damages that were already there when you moved in or damages that were caused by a vandal or other person besides you, your family, or your guests.

If you disagree for any reason, send a letter to your landlord by certified mail, return receipt requested, and by regular mail. Be sure to keep a copy for yourself.

What if my landlord doesn't pay?

If your landlord ignores your letter, or you cannot reach an agreement, you can file a lawsuit in either the District or Superior Court. Most people, however, will find it makes more sense to handle the case without a lawyer in Small Claims Court (a division of District Court). This is a lot faster and less expensive. NJP has a publication on [Small Claims Court](#) which you should read if you decide to sue there. The Small Claims Court publication explains the general process of Small Claims Court, as well as how to collect if you win. Generally, no lawyers are permitted in small claims court.

How do I file a claim?

Before you decide to sue your landlord, you should figure out whether you owe her any money. If you owe your landlord as much or more money than he owes you for your deposit, it is not a good idea to sue him/her. When you sue your landlord, he can make a counter claim for any money that he feels you owe him. However, if he did not give you an itemized statement within the 14 days he cannot seek money from you in your small claims case. He must file a separate claim for damages. For example, you file a lawsuit to get back your \$300 deposit. Your landlord files a counterclaim for \$600 for rent she claims you did not pay for two months. If you win, you will get a judgment against your landlord for \$300. If your landlord wins his or her counterclaim, however, she will get a judgment against you for \$600. This means you will end up owing your landlord \$300. If you sue your landlord and lose, you may have to pay your landlord's court costs.

When you name the party you are suing, called the "defendant," name both the owner

and/or the manager or person to whom you pay rent. If you can't find out who owns the residence, you could try calling a title insurance company (listed in the yellow pages) and ask for the name and address of the owner of the property you are renting. You could also try going to the county assessor's office for help in finding out who pays taxes on the property (usually the owner).

How do I prepare for court?

Be sure you have at least two copies of all the papers and documents you will need for trial. This includes receipts, move-in checklist, canceled checks, notices, letters, your rental agreement, etc. If you are going to have witnesses, or use witness statements, be sure the witnesses will be in court. Most judges will not consider statements from witnesses who are not in court to be questioned. If you are going to question your witnesses, tell them ahead of time what you will ask. Write down a list of important points to make and documents to give the judge, as well as the RCW citation supporting your point. (See [Sample Court Statements](#) below.)

Important: This publication provides general education concerning your rights and responsibilities. It is not intended to substitute for specific legal advice. Information in this publication is current as of the date of its printing, June of 2008. Laws change both as a result of legislative action and court decisions, and you should consult a lawyer if you need to assure that the information in this publication is current.

This publication does not address the specific requirements of subsidized housing programs, mobile home parks where the landlord does not own the mobile home, employer-provided housing, or any

commercial leases. If you live in any of these situations, you should get our

publication on that type of housing.

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RESIDENTIAL LANDLORD-TENANT ACT

59.18.260 Moneys paid as deposit or security for performance by tenant—Written agreement to specify terms and conditions for retention by landlord—Written checklist required.

If any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a lease or rental agreement, the lease or rental agreement shall be in writing and shall include the terms and conditions under which the deposit or portion thereof may be withheld by the landlord upon termination of the lease or rental agreement. If all or part of the deposit may be withheld to indemnify the landlord for damages to the premises for which the tenant is responsible, the rental agreement shall be in writing and shall so specify. No deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the commencement of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement. No such deposit shall be withheld on account of normal wear and tear resulting from ordinary use of the premises.

59.18.270 Moneys paid as deposit or security for performance by tenant—Deposit by landlord in trust account—Receipt—Claims

All moneys paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a lease or rental agreement shall promptly be deposited by the landlord in a trust account, maintained by the landlord for the purpose of holding such security deposits for tenants of the landlord, in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in Washington. Unless otherwise agreed in writing, the landlord shall be entitled to receipt of interest paid on such trust account deposit. The landlord shall provide the tenant with a written receipt for the deposit and shall provide written notice of the name and address and location of the depository and any subsequent change thereof. If during a tenancy the status of landlord is transferred to another, any sums in the deposit trust account affected by such transfer shall simultaneously be transferred to an equivalent trust account of the successor landlord, and the successor landlord shall promptly notify the tenant of the transfer and of the name, address and location of the new depository. The tenant's claim to any moneys paid under this section shall be prior to that of any creditor of the landlord, including a trustee in bankruptcy or receiver, even if such moneys are commingled.

59.18.280 Moneys paid as deposit or security for performance by tenant—Statement and notice of basis for retention—Remedies for landlord's failure to make refund.

Within 14 days after the termination of the rental agreement and vacation of the premises or, if the tenant abandons the premises as defined in RCW 59.18.310, within 14 days

after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement. No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises. The landlord complies with this section if the required statement or payment, or both, are deposited in the United States mail properly addressed with first class postage prepaid within the 14 days.

The notice shall be delivered to the tenant personally or by mail to his last known address. If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he shall be liable to the tenant for the full amount of the deposit. The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement within the 14 days or that the tenant abandoned the premises as defined in RCW 59.18.310. The court may in its discretion award up to two times the amount of the deposit for the intentional refusal of the landlord to give the statement or refund due. In any action brought by the tenant to recover the deposit, the prevailing party shall additionally be entitled to the cost of suit or arbitration including reasonable attorney's fee.

Nothing in this chapter shall preclude the landlord from proceeding against, and the landlord shall have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible together with reasonable attorney's fees.

59.18.285 Nonrefundable fees not to be designated as deposit—Written rental agreement required.

No moneys paid to the landlord which are nonrefundable may be designated as a deposit or as part of any deposit. If any moneys are paid to the landlord as a nonrefundable fee, the rental agreement shall be in writing and shall clearly specify that the fee is nonrefundable.

Sample Letter #1
Intent to Move Out

March 1, 2008

Joe Landlord
123 Maple Lane
Dollar, WA 98999

Certified Mail #

Dear Mr. Landlord:

I will be moving out of my apartment at 123 Tenant Road, #1, Dollar, Washington on March 31, 2008. Please forward my deposit to 456 Tenants' Haven Drive, Dollar, Washington 98999.

Sincerely,

Ima Tenant

Sample Letter #2

Sample Letter if You Received Nothing From The Landlord

April 15, 2008

Joe Landlord
123 Maple Lane
Dollar, WA 98999

Certified Mail #

Dear Mr. Landlord:

As you know, I moved out of my apartment at 123 Tenant Road #1, Dollar, Washington on March 31, 2008.

Although I left the place clean, I still have not received my \$300 deposit. As I am sure you know, the Washington Residential Landlord-Tenant Act requires you to either refund my entire deposit or give me an itemized statement of why it is being held within 14 days after I move.

The Act also states that if a landlord does not send the statement within 14 days the tenant is entitled to a complete refund. Also, if you intentionally failed to return my deposit or send me the statement, I can ask the court for double the amount of my deposit.

Please mail my \$300 deposit to me at my new address: 456 Tenant Haven Drive, Dollar, WA 98999. If I do not receive your check within one week, I may file a lawsuit to recover my deposit. If this becomes necessary and I win, you may have to pay the costs of this lawsuit and attorney's fees.

Sincerely,

Ima Tenant

Sample Letter #3

Sample Demand Letter if You Disagree with The Landlord's Statement

April 15, 2008

Joe Landlord
123 Maple Lane
Dollar, WA 98999

Certified Mail #

Dear Mr. Landlord:

Today I received your itemized statement explaining why you were withholding \$100 of my deposit. In reviewing your statement, I noticed you were charging me to repair a window that was broken when I moved in. You also appear to be charging me to repair a burner on the stove which simply wore out. As I am sure you are aware, under the Washington Residential Landlord-Tenant Act you may not withhold my deposit because of damages that were there before I moved in or because of normal wear and tear. The Act also provides that if I am forced to sue you to recover my deposit, and I win, you may also have to pay court costs and attorney's fees.

Please mail the remainder of my deposit to me at my new address: 456 Tenant Haven Drive, Dollar, WA 98999. If I do not receive your check within one week, I may file a lawsuit to recover my deposit.

Sincerely,

Ima Tenant

Sample Court Statements

Sample Court Statement for Not Receiving Anything

Your Honor, on November 3, 2001, I rented an apartment from the defendant, Joe Landlord, and gave him a \$300 deposit. Here are copies of my rental agreement, the written check-in list we signed and my deposit receipt. On March 1, 2008, I sent my landlord notice that I was moving and gave him a forwarding address. Here are copies of my letter and the envelope. On March 31, 2008, I moved. I waited 14 days. When I didn't get back my deposit or an itemized statement I sent my landlord a demand letter. Here is a copy of my letter and the receipt showing he received it. Unfortunately, my landlord still hasn't returned my deposit so I filed this lawsuit. Here is a copy of the Sheriff's affidavit showing that he served by landlord with my claim more than five days before trial. Under RCW 59.18.280, I feel I am entitled to double the amount of my deposit because my landlord intentionally failed to refund my deposit or provide me with an itemized statement. I also feel I should receive my \$10 filing fee and the \$25 fee the sheriff charged me to serve Mr. Landlord. I'd be glad to answer any questions you have.

Sample Court Statement for Pre-existing Damages and Excessive Charges

Your Honor, on November 3, 2001, I rented an apartment from the defendant, Joe Landlord, and gave him a \$300 deposit. Here are copies of my rental agreement, the written check-in list we signed and my deposit receipt. On March 1, 2008, I sent my landlord notice that I was moving and gave him a forwarding address. Here are copies of my letter and the envelope. On March 31, 2008, I moved. A few days later, my landlord sent me a statement saying I would not get any of my deposit back. Here is a copy of the statement. As you can see, my landlord is charging me for a broken window and replacement of the screen door. I am not responsible for the broken window. As my neighbor George Goodbody can explain, a stranger broke the window. Here is a copy of the report I filed with the police. I also feel my landlord is charging me too much money to repair the screen door my son damaged. Here are two written estimates I got from building repair stores stating they would repair the door for far less money. When I got the statement from my landlord, I sent him a demand letter explaining my position. He ignored it so I filed this lawsuit. Here is a copy of the letter. I feel I am entitled to \$250 of my \$300 deposit. I should also get my filing fee and service costs.