

Earnest Money

Some landlords may require a prospective tenant to put up “earnest money” or a “down payment” to hold an apartment before the parties actually enter into a rental agreement. This earnest money is NOT a security deposit, but may later be used as such if the parties enter into a rental agreement.

NOTE: If the landlord rejects a prospective tenant's application, all earnest money given by the tenant must be returned immediately. The only exception is the landlord may deduct the actual cost of a credit check (a maximum of \$20).

If the application is accepted and the parties enter into a rental agreement, all earnest money which the tenant paid MUST be applied toward the rent or security deposit. If the prospective tenant who paid earnest money decides not to rent, the landlord may only keep that amount which will cover actual damages and costs resulting from the tenant's actions. This may include lost rents only if the landlord has made reasonable efforts to reduce the rental loss (by trying to locate new tenants and re-rent the apartment). In all such cases, a landlord must give the tenant, upon request, a written statement accounting for all amounts withheld from an earnest money deposit.

Security Deposits

Most landlords ask their tenants to pay security deposits. Security Deposits are money that the landlord keeps until the tenant moves out. The landlord may then spend the deposit money to cover unpaid rent and utility bills, and to repair damage the tenant may have caused. Section ATCP 134.06 of the Residential Rental Practices Code contains state rules about security deposits.



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Landlords must give new tenants a list of damages they have charged against the unit's previous tenant's security deposit. They must give the tenant the list before the landlord takes the new security deposit, or at the same time as they notify the previous tenant about the charges, whichever is later.

Many times, landlords and tenants disagree at the end of a rental agreement about how well the tenants kept up the property. These disagreements often lead to arguments over how much of the tenant's security deposit the landlord should return.

One way to decrease this problem is for the new tenant to record the condition of the property on a checklist when they move in, and again when they move out. Landlords must give tenants a standard checklist that they have printed or bought. Sample checklists can be found online at www.tenantresourcecenter.org under "Resources" and "Forms." Landlords are required to notify tenants that they have a right to inspect the

property and give notice of any defects within 7 days from the date they move in. The checklist should include all major parts of the rental property and should have a way to grade each item on the list. It should also have space for comments about each item. Wis. Stat. 704.08.

The best way to do the inspection is for the landlord and tenant to do it together. After the inspection, both should sign and date the checklist. Each should keep a copy. If this is not possible, the tenant should have a witness make the inspection with them. The tenant and the witness should sign and date the checklist and give a copy to the landlord within 7 days of the move-in date.

Having to give the landlord a security deposit should encourage tenants to treat property respectfully. When tenants keep property in the same condition it was when they moved in, the landlord should return all their deposit money when the rental agreement ends.

When tenants damage property or don't pay their rent or utility bills, a landlord has the right to spend all or part of the security deposits to cover those expenses. A landlord may also sue for additional money to cover those expenses when the deposit is not enough. Tenants should not think their security deposit can serve as payment for their last month's rent, even if the deposit equals one month's rent.

A landlord does not, however, have the right to spend security deposit money to pay for normal wear and tear on carpets, furniture, or woodwork. They also may not use that money to pay for regular cleaning of the units, or for improvements they decide to make to the property, unless a specific provision to which both parties have agreed appears in the lease. A landlord may not charge unreasonable labor costs for repairs he or she does themselves.

Landlords must return security deposit money within 21 days after the end of the lease or the date a new lease begins for the same unit, whichever is earlier. When landlords do not return any or all of the deposit, they must tell the tenant in writing how much they spent and why. For example:

- Repair hole in bathroom wall
 - Materials (plaster) \$10.00
 - Labor (1 hour repair) \$10.00
- Repair stain in living room carpet
 - Cleaner \$ 3.50
 - Labor (1/2 hour repair) \$ 5.00

When a landlord does not follow these rules, a tenant can sue in Small Claims Court for twice the amount of their deposit plus court costs and attorney's fees.

CHECK-IN FORM
yes/no?

Landlord/Agent Delivery of this Form _____ Date _____
 Address of Residential Rental Unit _____
 Name of Landlord/Agent Providing this Mandatory Form _____ on Date _____

Name(s) of Tenant(s) moving in: _____
 Date of move in _____ Deposit Amount \$ _____

Tenant(s) should: request list of damages from prior tenant (by checking box below), complete this form (as must be provided by and filled in by Landlord) by noting any (unitemized) damages or defects in the rental unit in second column, make a copy for own records, and return completed copy to the Landlord/manager. (Tenant(s) must be given at least 7 days after moving in to complete/return.) Wis. Stat. 704.08

I/we request a list of physical damages or defects that were charged to the previous tenant's security deposit. This list shall be provided within 30 days of landlord's receipt of this request, or within seven days after the previous tenant has been notified of the charges of their deposit, whichever occurs later. ATCP 134.06

Tenant Signature(s) _____ Date _____

LANDLORD CHECK-IN FORM		
Kitchen	Provided? Y/N	Condition?
Range/Stove		
Hood fan		
Microwave		
Oven		
Dishwasher		
Sink/Faucets		
Disposal		

TENANT(S) CHECK-IN FORM		
Kitchen	Provided? Y/N	Condition?
Range/Stove		
Hood fan		
Microwave		
Oven		
Dishwasher		
Sink/Faucets		
Disposal		
Refrigerator		
Refrigerator Exterior		
Refrigerator Components (ice traps, shelves, etc.)		
Countertops		

Check-out Form

Agent's Delivery of Check-out Form _____ Date _____
 Address of Rental Unit _____
 Owner/Agent Providing Form _____

Tenant(s) moving out
 Complete and return this form to landlord/manager, keeping a copy for your records. If you would like to schedule a walk-through, contact _____ (name) at _____ (phone) before _____ (date).

Tenant Name(s) _____ Date _____ Amount _____
 Forwarding address for return of security deposit: _____ Date _____ Amount _____
 Please return the security deposit to: _____ Date _____ Amount _____

Tenant Signature(s) _____ Date _____

Original Deposit Amount \$ _____ Rent Credit Due \$ _____

Explanation for any rent credit deemed not due: _____

Kitchen	Provided?		Condition?	Dining Room	Provided?		Condition?
	Yes	No			Yes	No	
Range/Stove				Walls/Ceiling			
Hood fan				Woodwork/Trim			
Microwave				Door(s)			
Oven				Window(s)			
Dishwasher				Window Coverings			
Sink/Faucets				Light Fixture(s)			
Disposal				Outlets/Switches			
Refrigerator				Flooring/Carpet			
Refrigerator Exterior				Cabinets/built-ins			
Refrigerator Components (ice traps, shelves, etc.)				Closet(s)			
Countertops				Other			

Living Room	Provided?		Condition?
	Yes	No	
Walls/Ceiling			
Countertops			