**Security Deposits 101**

**Security Deposits Basics**

A security deposit is used both to make sure that the tenant pays rent and maintains the unit in good condition. The security deposit includes any money that you pay besides the first month’s rent and the application fee (if any). The security deposit is considered your property and therefore you always have an opportunity to a refund of the funds. The landlord can only keep this money in certain circumstances.

Before you move out provide your landlord notice of your new address. If you do not, the deposit may be sent to the old address.

**When can the landlord keep my deposit?**

The landlord may retain some or all of your deposit:

* If you did not fully pay your rent.
* If you did not give thirty days’ notice before moving out, the landlord may keep up to thirty days of rent.
* If there are damages to the property. However, the landlord cannot use your deposit to fix minor damages due to normal use to the property (“ordinary wear and tear”). Additionally, the landlord cannot use the money to fix damages that existed before you moved in.
* To clean the apartment so that it is as clean as when the tenancy began.
* If you are behind on paying your water bill.

Within 21 days after you move out, your landlord must return the deposit to you or send a letter. The letter must explain why the deposit is not being returned and include an itemized list of each of the expenses with copies of documents showing the cost of expenses. However, the landlord does not need to provide this letter and receipts if the costs are $125 or less.

**What can I do if the landlord unfairly keeps my security deposit?**

The first option is to send a demand letter to the landlord. An example letter is provided in this packet for you to use. **Be sure to keep a copy for your own records**. This letter serves to demand a detailed explanation of why the deposit was withheld and what the money was spent on. This letter should also explain that the unit was left in good condition and that you may have to sue the landlord in small claims court. Furthermore, if the landlord acted in bad faith (unreasonably), he or she may be required to pay not just the deposit, but also double the deposit.

If the landlord still refuses to return the deposit or compromise, the best option is to sue the landlord in small claims court. Essentially, this is a brief opportunity for you and the landlord, without the help of lawyers, to explain the situation to the judge. Unfortunately the small claims process can be unpredictable. Consider whether you have evidence to support your case (photos, videos, a non-biased witness). To find out more information about how to proceed, call or visit your county’s small claims court. Generally, a free translator will be provided, but you may need to bring someone who can translate. If you have further questions, please contact the court’s Small Claim’s Advisor (numbers are provided below).

**Other common issues**

I moved out but the landlord says I still owe rent and is keeping the deposit? If you pay rent each month, you must give the landlord 30 days’ notice in writing. If you do not provide this notice, the landlord can charge you for 30 days after you move out unless a new tenant pays rent before the 30 days expire.

What exactly is “ordinary wear and tear?” You do not have to pay for damage that resulted from normal use of the property. This is often disputed, but some examples may be helpful. Some examples of ordinary use include: the blinds are faded, the carpet is worn, or there are minor stains on the bathtub. However, if the blinds are broken or the carpet is burned, these would likely be beyond ordinary use.

I left the unit even cleaner than when I arrived, but a cleaning fee was still charged. The landlord can withhold your deposit to bring the unit to the same standard of cleanliness as when you arrived. However, if you left the place clean and you feel that the cleaning fee is unjust, you can follow the process discussed above (send a demand letter to return the deposit and if the landlord refuses you can sue in small claims court).

What happens if not all of the tenants leave? If multiple cotenants paid the deposit to the landlord and one of the cotenants leaves, the landlord is not required to return any of the deposit until all the tenants under the lease leave. Consider arranging an agreement with the remaining tenant.

**Local Courts**

|  |  |
| --- | --- |
| **Solano County – Small Claims Clerk**580 Texas StreetFairfield, CA(707) 344-1446, (707) 863-1643Monday-Thusday 9:00 am – 1:00 pm | **Yolo County– Small Claims Division**1000 Main StreetWoodland, CA 95695(530) 406-6704Monday-Friday 8:00 am – 4:00 pm |
| **Sacramento County – Small Claims Clinic**301 Bicentennial Circle, #200Sacramento, CA 95826(916)-875-7846Monday-Friday 8:00 am – 12:00 pm, 1:00 pm – 4:00 pm | **San Joaquin County – Small Claims Court**180 E. Weber Ave., 2nd FloorStockton, CA 95202(209) 992-5701Monday-Friday 8:00am – 12:00pm, 1:00pm – 4:00 pm |