



SEOLS
Southeastern Ohio Legal Services

HOUSING

SECURITY DEPOSITS

HOW TO GET YOUR SECURITY DEPOSIT BACK

What Can I Do?



A step-by-step guide for Tenants

Updated June, 2022



Some Advice Before We Start

Q. What is a security deposit?

Landlords often require security deposits before they will rent to any tenant. The security deposit is an amount of money the tenant must pay the landlord before moving into the rental unit. The landlord keeps this money until the lease is finished just to make sure that the tenant does not break the lease or destroy the rental unit. No part of the deposit can be referred to as “nonrefundable.”

Q: Can the landlord keep my deposit?

There are some situations when the landlord can legally keep part or all of your deposit, like if you still have unpaid rent or if you have caused damage to the property beyond normal wear and tear (such as broken windows or large carpet stains). Your deposit can be withheld to pay for those things.

Q: When is withholding the security deposit NOT allowed?

The landlord cannot keep your deposit if you paid everything you were supposed to under the lease, you returned all the keys you were given when you moved in, and left the property in good condition: empty, cleaned up (including oven and fridge), and with no damages to the property beyond normal wear and tear.

Q: I paid everything I owe and left the rental unit in good condition, how long do I have to wait for my deposit?

After you move out your landlord has **30 days** to return your security deposit or explain why they are keeping the deposit in a written notice. However, you must supply a forwarding mailing address so your landlord knows where to send the refund of your security deposit. If you don't provide a forwarding mailing address, the landlord does not have to return the deposit or say what it was used for.



Who Pays for It?

Ordinary wear and tear landlord must pay for:

- Curtains faded by sun
- Minor marks on or nicks on wall
- Moderate dirt or spotting on carpet
- Few small tack or nail holes in wall (depending on lease language)
- Rug worn by normal use
- Faded paint on bedroom wall
- Dark patch of ingrained soil on wood floor

Damage or excessive dirt the tenant must pay for:

- Cigarette burns on curtains or carpets
- Broken tiles in bathroom
- Large marks or holes in wall
- Door off its hinges
- Rips in carpet or stains from pets
- Lots of holes/gouges in walls
- Large stains in rug
- Water stains on wood floor caused by windows left open during rain storm



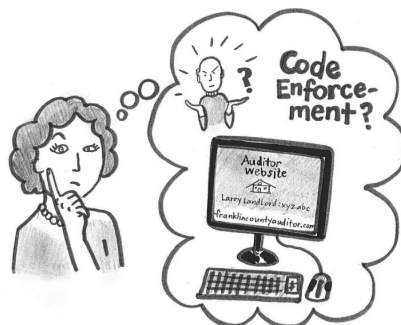
What Can I Do To Get My Deposit Back?

Step 1: Write a Letter Requesting the Deposit

If the landlord does not return your deposit or give you a reason for not returning your deposit, send your landlord a letter asking for it. Also, include in the letter your forwarding mailing address. This does not have to be where you live, but it should be an address where you know you can receive mail.

You may have to prove that you sent this letter so **keep a copy or picture of the letter** for your records. Then take the letter to the post office. Ask the postal clerk for a “**certificate of mailing**”. This costs a little more than a regular stamp (about \$2.00) and proves you mailed the letter. When you are done, you will have a copy of your letter and a “certificate of mailing” showing you mailed it to your landlord. This is good proof that you gave written notice to the landlord that you requested your deposit be returned. On the next two pages are a *sample letter* and a *blank form* you can use for your letter.

Unsure of the landlord’s name or address? If you have a lease, the landlord’s name and address is usually near the beginning of the lease. If you are unsure of your landlord’s name or mailing address, go to your County Auditor’s website and do a search for the owner of the property by address. Sometimes the property will not show up when you use the number and street because the owner has several units in a row. In that case, just search the street your unit is on and scroll through to find your unit number. When you find your address, it will show you the name and address of the owner of the property.



SAMPLE LETTER ASKING FOR YOUR DEPOSIT

Tony Tenant
123 Main Street, Apt. 56C
Portsmouth, OH 43214

Larry Landlord
362 Elm Street
Portsmouth, OH 43218

February 25, 2022

Re: My security deposit

Dear Landlord,

I was your tenant at 1399 E. Main Street, Columbus, OH 43232, and paid a security deposit of \$600.00.

Please mail the deposit, or a written itemization of how the deposit was applied, to the following address:

Tony Tenant
123 Main Street, Apt. 56C
Columbus, OH 43214

Thank you for your kind attention to these matters.

Sincerely,

Tony Tenant

Tony Tenant

☒ I kept a photocopy of this letter for my records

☒ I sent this letter with a certificate of mailing

(tenant's name)

(tenant's current address)

(landlord's name)

(landlord's address)

Date: _____

(today's date)

Re: My security deposit

Dear _____,

(name of landlord)

I was your tenant at _____

(tenant's former address)

and paid a security deposit of \$_____.

(amount)

Please mail the deposit, or a written itemization of how the deposit was applied, to the following address:

(tenant's forwarding mailing address)

Thank you for your kind attention to these matters.

Sincerely,

(tenant's signature)

☐ I kept a photocopy of this letter for my records

☐ I sent this letter with a certificate of mailing



Step 2: File a Lawsuit in Small Claims Court

If you have been out of the rental for more than 30 days and the owner has not responded to your letter after a few weeks, you can sue the landlord in small claims court.

Small claims court is informal but you will need to convince a judge (or “magistrate”) that you should get the deposit back. This will involve filing a complaint and then explaining what happened to a magistrate in court, and showing the magistrate your evidence (such as receipts and photos of the way you left the property). There is a **fee to file a small claims lawsuit**. That fee is different depending on your county. The maximum amount you can sue for in small claims court depends on the court. **Please note these amounts change periodically.**

Each County has a different process to file a small claims action. To get information about how Small Claims works in your county, you can call your Municipal Court or visit their website.

How to File in Small Claims Court

What Is a Small Claim?

A small claim is a lawsuit involving money damages up to \$6,000. The small claims court uses a streamlined and fairly informal process for hearing cases and there is no jury. You can claim only money damages, not the return of property or the completion of services. You may not recover “punitive damages,” and you may not recover any money you paid in gathering evidence or coming to court (travel expenses, lost wages, baby-sitting, parking, etc. cannot be claimed). You may add any court fees or court costs to the amount of your claim.

Step 1: Prepare the Forms

After you have waited a reasonable time to allow your landlord to return your deposit, at least 30 days after you moved out, you need to fill out the necessary forms to file your Complaint. These instructions are for people filing in Small Claims Court. Small Claims Court is informal, but you can only ask for up to the amount of money set by the court.

You will need to prepare the forms provided by your Municipal Court. Most of these courts have their small claims form online to download. If not, you can call the contact number and the Clerk will be happy to help you with the process.

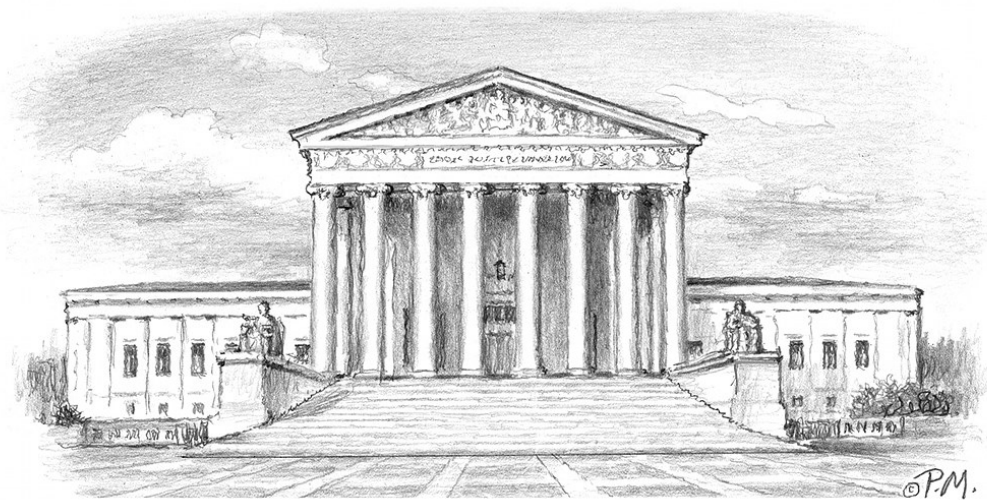
The Complaint needs to be signed in front of a notary who will notarize the Complaint. After the complaint is complete and notarized, you will need to make three copies of the Complaint.

Step 2: File Forms

Take the original Complaint, the 3 copies of the Complaint, any additional forms required by your small claims court, and the filing fee to your County's Municipal Court. You will first have to pay the filing fee. The office accepts cash, checks, money orders, or credit cards (VISA or MasterCard). After your fee is paid, the clerk will take the Complaint and copies. The clerk will mail a copy to the landlord. The case has begun!

What if I Can't Pay the Fee?

If you are unable to pay the filing fee because it is too much of a financial burden, it can be waived if you fill out a "civil fee waiver and affidavit" and a judge approves it. You should call your local court and ask about their process for a fee waiver affidavit. Once you fill it out, it must be notarized and approved by a judge before going into effect. If the fee waiver request is approved, you will be able to file your Complaint without pre-paying the filing fee. However, you may still be responsible for paying the filing fee at a later time depending on the outcome of your case.



HELPFUL HINTS FOR YOUR COMPLAINT FORM

Further down in this packet you will find a Sample Complaint.

- ***When do I sign the Complaint?***

The Complaint form needs to be signed in the presence of a Notary Public. Do not sign the Complaint form until you are in the presence of a Notary. The clerks at court are usually notaries and willing to notarize documents like a Small Claims Complaint.

- ***Who should I list as the Defendant?***

It is important that you name as a Defendant the Owner of the Building that you rented from. Sometimes the landlord is also the owner of the building, and you just name that person or company. In other situations, especially with apartment complexes, the Owner of the building hires a property manager or property management company that acts on behalf of the Owner. This property manager may be the person or company that you dealt with during the tenancy, and who you think of as your landlord. However, that person or that management company is just an agent of the Owner, and may be difficult to collect a judgment from. The owner of the building should be easier to collect from because the owner does have an asset—the building. Therefore you should write down two Defendants, BOTH (1) The property manager (or property management company) and (2) The owner of the property. For information on how to find out who the owner is, and what address to put down if the owner or manager is a business or a company, see the information on the next page.

- ***How do I find out who owns the building?***

Go to your County Auditor's Website and choose the option to do a "property search". You can search by address but sometimes if you put in your address, especially with an apartment building, you will get no results. If you have trouble, you should call your local Auditor's office.

- ***The owner is a business. What address should I put down on the complaint form?***

When you sue a business, be it a management company or a property ownership company, you can put down the address of the business' usual place of business, or the business' statutory agent.

- ***How do I locate the "statutory agent"?***

In order to find the name and address of the business' statutory agent, you have to go to the Ohio Secretary of State website, and do a search in the "Business Filings" section. The easiest way to find the website is to go to Google and then type in "Ohio Secretary of State business search". Then:

- ⇒ Click on the first result Google gives you, and you will be taken to the Ohio Secretary of State website, and be able to do a "Business Search by Name".
- ⇒ Type in the name of the Owner of the building and click "search". You will then get a listing of businesses, and hopefully one of them will be the name you are looking for.
- ⇒ To the left of the name of the business is a column that says "Entity Number". Click on that number and you will get "Corporation Details", including, "Agent/Registrant Information"
- ⇒ Write down the name and address of the Agent.
- ⇒ On the complaint form put down the name of the Owner, then on the next line write "C/O Statutory Agent" and below that put down the name and address of the statutory agent.

Whew! Lots of work.

SAMPLE Complaint (Landlord is owner)

MUNICIPAL COURT SMALL CLAIMS DIVISION

Case No. _____ CV I _____

Tony Tenant
123 Main St. Apt. 56C
Portsmouth, OH 43214
740-123-4567

Plaintiff(s) Name, Address, ZIP Code, and
Telephone Numbers

Larry Landlord
362 Elm St.
Portsmouth, OH 43218
740-765-4321

Defendant(s) Name, Address, ZIP Code, and
Telephone Numbers

- (1) Has this dispute been to mediation? ☐ Yes ☐ No
(2) Is the Defendant currently in the United States Military Service? ☐ Yes ☐ No
(3) The Summons (Defendant's Notice of the Complaint) will be sent by certified mail. If you waive notice of failed service and the certified mail is returned as "Refused" or "Unclaimed," the Court will resend by ordinary mail and set a new trial date. Do you want to waive notice of failed service? ☐ Yes ☐ No

COMPLAINT

I paid a security deposit of \$650 on 1/30/21. I vacated the residence on 1/31/22 and provided a forwarding address to the landlord on that date.

My deposit has not been returned. I am asking for twice the amount of the deposit.

1. Amount of deposit (\$650)
 2. Amount wrongfully withheld (\$650)
- Total = \$1,300

Please use an additional page if necessary.

Plaintiff demands judgment against Defendant in the sum of \$ 1,300, plus court costs and interest.

COMPLAINANT'S OATH

(print first and last name), is
(check one) ☐ Plaintiff ☐ Plaintiff's attorney ☐ an officer or salaried employee of the Plaintiff corporation. Complainant also states the following:

"I declare under penalty of law that this Complaint is true and correct to the best of my knowledge."

Signature: Tony Tenant Date: _____
Plaintiff, Plaintiff's attorney, or Plaintiff's officer or salaried employee.

Attorney Registration #: _____

Sample when Landlord and owner are different, suing both and both are businesses.

MUNICIPAL COURT
SMALL CLAIMS DIVISION

Case No. _____ CV I _____

Tony Tenant
123 main st. Apt. 56C
Portsmouth, OH 43214
740-123-4567
Plaintiff(s) Name, Address, ZIP Code, and
Telephone Numbers

ABC Property Management, LLC
c/o statutory agent Joe Schmoe
729 Oak St, Cleveland, OH 44105
and
Big Deal Property Owner, LLC
c/o statutory agent
National Registered Agent
1750 E. 5th St, Akron, OH 43111
Defendant(s) Name, Address, ZIP Code, and
Telephone Numbers

- (1) Has this dispute been to mediation? ☐ Yes ☐ No
(2) Is the Defendant currently in the United States Military Service? ☐ Yes ☐ No
(3) The Summons (Defendant's Notice of the Complaint) will be sent by certified mail. If you waive notice of failed service and the certified mail is returned as "Refused" or "Unclaimed," the Court will resend by ordinary mail and set a new trial date. Do you want to waive notice of failed service? ☐ Yes ☐ No

COMPLAINT

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(check one) ☐ Plaintiff ☐ Plaintiff's attorney ☐ an officer or salaried employee of the Plaintiff corporation. Complainant also states the following:

"I declare under penalty of law that this Complaint is true and correct to the best of my knowledge."

Signature: Tony Tenant Date: _____
Plaintiff, Plaintiff's attorney, or Plaintiff's officer or salaried employee.

Attorney Registration #: _____



Step 3: Preparing for Court

Plan how you will tell your story ahead of time. Write a checklist of things you want to say so you will remember everything and have a better chance of winning. It also helps to list the pieces of evidence you will show next to points you want to make so that you remember to show the proof supporting your statements.

Gather the evidence that you will bring to court. This includes:

- ♦ your lease (if any),
- ♦ receipt for your security deposit if you have one,
- ♦ a copy of your notice to the landlord with your new address.

Other items you should bring if you have them include:

- ♦ photos or videos of how you left the residence,
- ♦ rent payment receipts,
- ♦ notes you have made to record calls or other events,
- ♦ notices you have received from the landlord,
- ♦ the walk-through sheet where you and the landlord listed any damages you were to pay (or other evidence of the property's condition when you moved out), and
- ♦ anything else that will help you prove that you did everything you were supposed to do.

For each piece of evidence, you should bring a **copy of the document for your records, and a copy for each person participating in the case** (the landlord, the magistrate, any witnesses, and yourself). The court will keep any documents that are accepted as evidence. You should also bring the original documents just in case you need them.

Contact any witnesses to be sure they know when and where the hearing will be held. Their testimony is a part of your evidence. Also, make sure they bring any written notes, pictures, etc. that they have. Your witnesses should only be people who have first-hand knowledge of the situation, such as someone who witnessed the lack of damage in your apartment. Quotes from people who are not present during the trial will not count as evidence. When you call the witness ask, for example, “Did you see the condition of the apartment when I moved out? Tell the court what the condition was.”

ON THE COURT DATE

Dress appropriately and be polite. Looking nice will make you feel more confident and will lend you credibility. Try to avoid jeans, cutoffs, shorts, and athletic wear. Call the judge “your honor” and call the opposing party “sir” or “ma’am”. When the judge or landlord is speaking do not interrupt. In court one person is allowed to speak at a time.

Arrive early. Be in the courtroom when your case is called. If you are not there, the court will probably dismiss the case. If the other side is not there, you can ask the court to enter a default judgment against them which means that you could automatically win your lawsuit.

Bring your evidence. If you bring a document to offer as evidence you should bring (1) the original, (2) a copy for each party in the case, and (3) a copy for your own records.

Present your evidence. Generally, you (the plaintiff) will present first. This is the time to show evidence that supports your complaint, including showing proof you paid the deposit, proof that you gave the landlord a forwarding mailing address, and proof of the way the rental unit looked when you moved out. Present any receipts or photographs to the magistrate and give copies to the other party. Also if you have witnesses to how the rental unit looked when you vacated, ask them to testify about that.

Tell the magistrate that you are asking for 1) your security deposit and 2) damages in the amount of money wrongfully withheld. This is according to Ohio Revised Code section 5321.16.

After you present your evidence, the magistrate or the landlord can ask you and your witnesses questions. In small claims court the judge usually asks most of the questions. The judge will then want to hear the landlord’s side of the story. If the landlord says money was withheld for unpaid rent or other charges, show the magistrate proof that you made those payments, if you did. If the landlord withheld money for routine carpet cleaning or cleaning, or for damages you did not cause, remind the judge that the landlord can only keep money for damages beyond normal wear and tear. Tell the judge that you did not cause any damage beyond normal wear and tear.

Collecting Your Judgment

If you win your case, the landlord may or may not decide to pay you. The first step to get your payment is to write the landlord a letter asking for the money the magistrate ordered be paid to you. You should include the total amount due, including court costs and interest. If you are willing to work out a payment plan or some other form of payment (such as services or goods), be sure to mention that as well. Ask the landlord to respond to your letter promptly. The landlord has 15 days to pay the judgment voluntarily.

Other Information to Consider

Unfortunately, if the landlord doesn't voluntarily pay you, it can be difficult to collect your money. If your landlord refuses to pay or ignores you, then you may use a variety of procedures to collect your money. Each method involves more paperwork, and most of them involve filing fees as well. This is simply an overview of two available options. For more methods and specific information seek the advice of an attorney or contact your local Municipal Court or visit their website for the proper forms.

Option 1: Bank Account Attachment

- This targets money that the landlord has in a checking or savings account. If you know that the landlord has one of these accounts, you can ask the court to use that money to pay you. To do this, you need to get the landlord's banking information, including the name and address of the bank and the landlord's account number.

Option 2: Judgment Lien on Real Estate

- If you get a judgment lien on the landlord's owned real estate, you would get an interest in the property. If the real estate goes into foreclosure, is refinanced, or is sold, then you would be able to collect the cash value of your judgment.

If You Lose

Objecting

- If the magistrate does not rule in your favor, and you want to continue fighting for your security deposit, you can file an objection to try and get the decision changed. You have 14 days to file an objection after the magistrate files his or her decision. If you file an objection within this period, then your landlord can file an objection within ten days of your objection, and vice versa.

Helpful Contacts

How to Contact SEOLS:

Request services online at www.seols.org

Reach us at one of our offices below or toll-free at 844-302-1800

Athens Office

740.594.3558

Serving Gallia, Meigs, Morgan, Noble, Vinton, and Washington Counties

New Philadelphia Office

330.339.3998

Serving Coshocton, Guernsey, Holmes, and Tuscarawas Counties

Chillicothe Office

740.773.0012

Serving Fairfield, Fayette, Hocking, Jackson, Pickaway, Pike, and Ross Counties

Portsmouth Office

740.354.7563

Serving Adams, Lawrence, and Scioto Counties

Newark Office

740.345.0850

Serving Knox, Licking, Muskingum, and Perry Counties

Steubenville Office

740.283.4781

Serving Belmont, Carroll, Harrison, Jefferson, and Monroe Counties

How to Contact LASC:

Request services online at www.columbuslegalaid.org

FRANKLIN & MADISON COUNTIES

Call (614) 241-2001 or Toll-Free 888-246-4420

1108 City Park Ave., Columbus, OH 43206

Office Hours: 8:30am-5:00 pm, Monday-Friday

DELAWARE, MARION, MORROW, & UNION

Call (740) 383-2161 or Toll-Free 888-301-2411

150 Oak St., Marion, OH 43302

Office Hours: 9:00 am -5:00 pm, Monday-Friday

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