



Security Deposits

The legal rights and obligations associated with being a tenant and some common terms and regulations of the tenant/landlord relationship are highlighted below. If you need information about your legal rights and responsibilities as a tenant, please contact the Massachusetts Office of Consumer Affairs and Business Regulation, +1-888-283-3757.

Useful guides published by the Massachusetts Office of Consumer Affairs and Business Regulation regarding Landlord and Tenant Rights and Responsibilities are available at:

<http://www.mass.gov/ocabr/consumer-rights-and-resources/housing/tenant-and-landlord/tenant-rights.html>

<http://www.mass.gov/ocabr/consumer-rights-and-resources/housing/tenant-and-landlord/landlord-rights.html>

A security deposit is money given to the landlord by the tenant to protect the landlord against unpaid rent or damages to the rental unit. Although the landlord may also use the security deposit to cover unpaid rent and advertising cost, this deposit is not the same as the last month's prepaid rent required by some landlords. Usually the security deposit is turned over to the landlord at the time the rental agreement is finalized and returned or accounted for after you move out.

There is no guarantee that your deposit will be returned to you. However, by taking proper care of the premises, notifying the landlord of any problems, and keeping copies of all correspondence and documents pertaining to the leased premises, you can help minimize the likelihood of an unreasonable withholding of the deposit.

Maximum Amount

A landlord must not charge more than one month's rent plus the cost of installing a new lock and key as a security deposit. Your landlord must keep the deposit in an interest bearing bank account and tell you in writing the name of the bank and the account number within thirty days of

receiving the deposit. The security deposit must be kept separate from you landlord's own money, and the name on the account must make it clear that the money does not belong to him or her. If your landlord fails to provide you with the proper information about your security deposit, you can ask for a refund.

If the landlord requires the last month's rent when you move in, he or she must pay you 5% interest yearly. Annually on the day on which you paid the money, your landlord either must give you a check for the interest or deduct it from your next month's rent.

Insuring Deposit Returns

Moving In

You should obtain a receipt for whatever deposits are paid. Getting a deposit back will be much easier with a canceled check or a receipt.

If your landlord requires a deposit, he or she must give you a summary statement of all damages already existing in you apartment, including all Sanitary Code violations. You must then review the list, sign it, and return it to your landlord within fifteen days. If you find additional damages, you must make a separate list, send it to your landlord, and he or she must return it to you within fifteen days. If you neither return your landlord's list or compile a list of your own, any court of justice will assume that you have agreed with your landlord's list.

Taking photographs or videotaping the premises is also a good idea, especially if there are serious damages. Photographs should be independently signed and dated by a commercial developer.

During Tenancy

You should obtain and keep a receipt for every rent payment, including prepaid rent. If paying by check, you should note on the check the month for which the rent is being paid. If paying by money order, you should still get a receipt from your landlord. Make sure you keep all papers regarding your tenancy, including all canceled checks.

You may discover defects in your unit much later after you have moved in.

Notify your landlord in writing immediately by certified mail. Be sure to keep a copy of the letter for yourself.

Moving Out

When leaving, you should leave the unit clean and in the same condition you found it in when you moved in. Settling the issue of damages can be a trying and lengthy battle. It is your word against your landlord's unless you have evidence. To avoid disputes, you should refer back to the list that you and your landlord agreed upon when you moved in. Both you and your landlord should re-inspect the unit for damages before vacating. Taking photographs or videotaping the premises again can help verify the condition of the unit when you moved out.

Your landlord should return the deposit and accrued interest or account for it within thirty days of the termination of the rental agreement. If you are dissatisfied with your return, talk to your landlord first. If you are still not satisfied, you will have to go to the Worcester Housing Court to recover your deposit. Be prepared to disprove your landlord's claimed damages with photographs, material evidence, and witnesses.

If you have been living with a roommate, be cautious if you and your roommate have split the security deposit. Do not have the new tenant pay you for the deposit refund. Instead, involve your landlord. Schedule a time for your landlord to inspect your unit and then have the landlord refund your portion of the security deposit. The new tenant should pay his or her share directly to the landlord. This is the only means by which the new tenant can be guaranteed a refund of his or her money when leaving.

Deductions for Loss of Rent

The landlord may withhold all or part of the security deposit for non-payment of rent or damages to the unit. Many tenants lose their security deposit by vacating the premises before the expiration of the lease. They also lose their deposit by failing to give the landlord a thirty day notice or other notice, as required by the lease, prior to leaving. Even though you may have vacated the premises, you can still be charged for rent if timely notice was not given. You can also be charged for damages to the premises above and beyond normal wear

and tear. However, your landlord can only withhold or deduct money for damages you or your guests actually caused.

Be sure to ask the landlord to itemize deductions from your security deposit so you know how much he or she has charged for damages. Do not be afraid to challenge security deposit deductions if you think they are inaccurate or excessive.

Normal Wear and Tear

Normal wear and tear is damage or deterioration by ordinary and reasonable use of the property. A landlord should expect having to repaint the walls every few years, especially in the kitchen. A landlord should also understand that furniture normally gets worn with age, walls can acquire small nail holes, and carpets get old. The law requires the landlord to pay for ordinary wear and tear. You, the tenant, must pay for accidental or intentional damages and cleaning made necessary by extreme uncleanness.