

# All About - Security Deposits in Wisconsin

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What is a security deposit?

A security deposit is money you give to the landlord, usually before you move in, as proof that you intend to pay your rent and take care of the property you are renting. The landlord holds that money for you during the length of your rental. When you move out, the landlord may use that money to cover any damages you left in the property or any losses, such as rent you left unpaid. Any left-over money must be returned to you.

Is a security deposit the same thing as an earnest money deposit?

No. Earnest money is money paid to the landlord to hold the apartment or house pending the application process. The landlord is legally promising that if they approve your application, they will rent the residence to you and not anyone else.

If the landlord approves your application and you enter into a rental agreement with them, the landlord must refund the earnest money deposit, or apply it to rent or the security deposit. If the landlord rejects your application, or you withdraw your application before it's accepted or denied, the landlord must return the full earnest money deposit to you by the end of the next business day. If the landlord hasn't approved your application by the end of the third business day after you gave them the earnest money deposit, the landlord must return the full earnest money deposit to you by the end of the next business day, unless you've agreed in writing to give them more time. If the landlord approves your application but you end up deciding

not to enter into a rental agreement with them, they must return the earnest money but they can withhold their actual costs and damages from it. Actual costs and damages might include, as an example, the cost of advertising the vacant unit.

How much can a landlord charge for a security deposit?

In Wisconsin, there is usually no limit on how much a landlord can charge for a security deposit, as long as it is not charged in a discriminatory way (a landlord cannot charge a higher security deposit based on the race of the renter, for instance). The exception to this rule is when renting a mobile home, in which case a landlord cannot charge more than two months' rent or \$750, whichever is less.

Is a receipt required for a security deposit?

Yes. When you give your landlord a security deposit, your landlord must immediately provide you with a written receipt including the amount and the purpose (security deposit). There's an exception if you pay using a check with "security deposit" written on it, but even then a landlord must still provide a receipt if you ask for one.

What can a landlord deduct from the security deposit?

A landlord can keep as much of the security deposit as is needed to pay for the following:

- Unpaid rent.
  - The landlord must take reasonable steps to try to re-rent your unit if you move out before the end of the lease term. Once the unit is rented to a new tenant, the landlord must stop charging the rent to you. You are on the hook to pay for those "reasonable steps" the landlord took to re-rent the apartment, however, such as the cost of advertising the vacant unit.
- Unpaid utilities & municipal fees if:
  - The utility is government-owned and the landlord will be responsible for charges when the tenant doesn't pay.
  - If the bill for the utility was in the landlord's name and the utility was explicitly not included in your rent.
- Damage, waste or neglect of the premises caused by you or your guests.

- This does not include normal wear & tear
- This can include time spent purchasing materials as well as contracting with and supervising workers.
- Items the landlord has specifically warned they are going to deduct for in a document labeled 'NONSTANDARD RENTAL PROVISIONS' that was included with your lease. The landlord must go over each of these provisions individually with you. If you initial or sign this separate document, the court will assume the landlord has done so.
  - This does not include normal wear & tear
- Unpaid mobile home parking fees, if the landlord will be responsible for charges when the tenant doesn't pay.

What is "normal wear and tear"?

Even if you take good care of a place, appliances and surfaces such as carpets get worn down simply from age and repeated use. So if after ten years of hosting renters, the carpets in an apartment need to be replaced, that is due to normal wear and tear, and is the responsibility of the landlord to pay for, and not the responsibility of the tenth renter to pay for.

How soon should I get my deposit back?

Twenty-one days is the time-frame to remember for security deposits. The landlord must return either the full security deposit, or whatever is left of the security deposit plus a detailed explanation of the amount they kept from the deposit within 21 days of the following:

- If you leave at the end of your rental agreement: the date the rental agreement ends.
- If you move out or are evicted before the end of your rental agreement: the date the rental agreement ends or the date on which a new tenant moves in, whichever comes first.
- If you move out or are evicted after the end of your rental agreement: the date the landlord learns you've left the house or apartment.

**Remember!** You should leave a forwarding address with the landlord in order to get your security deposit within 21 days. The landlord is supposed to send the security deposit to your last known address, so if you do not want your landlord to know your new address, make sure you have your mail forwarded through the USPS.

What if the landlord does not return the entire deposit or deducts something they shouldn't have from the deposit?

1. One option is to write an email or letter to the landlord. You can include specific reasons why you disagree with a deduction if you have the landlord's statement regarding deductions from your security deposit. You should also confirm the landlord has your new address.
2. Another option is to file a complaint with the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP).
3. A third option is to sue the landlord in small claims court. If a court finds that the landlord violated the laws on security deposits, you may be awarded twice the amount of your damages plus costs and reasonable attorneys' fees.

**Important:** Cashing a check that the tenant believes does not cover the full amount owed is risky because the tenant may not be able to sue for the remaining amount. Tenants in this situation may want to contact an attorney for legal advice about their options.

What can I do to increase the chances of getting my full security deposit back?

1. **The check-in sheet.** If you've given the landlord a security deposit, they are required to give you a written notice that you have seven days after moving in to do either or both of the following:
  - a. Inspect the unit and notify the landlord of any existing damages
  - b. Request a list of defects or damages that the landlord charged against the previous tenant's security deposit.

Oftentimes, the landlord will have a check-in sheet that you can use for the inspection, but you can also make your own or use the TRC's sample. Write

down a list of everything you find wrong with the unit when you moved in.

List even very small damages, like the number of nail holes in each wall, dents in the floors, and chipped paint on the baseboards. Be sure to check each outlet and appliance to make sure it works properly. Once you've finished your list, sign and date it. Make a copy for yourself before you give the original to your landlord.

2. **Photographs & Video.** You can take pictures or video of the unit when you move in, to document any pre-existing damage or defects. You should do the same when you move out, to document the state in which you left the unit. Pictures or videos that you might later have to use in court should be clear and date-stamped.

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