

UCS420/6.22/9.903

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## in Adult Education Resource Center

3647 S. Santa Fe Drive  
Englewood, Colorado 80110

# Action

colorado state university extension service

# Renter information - security deposits

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no. 9.903

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## Quick Facts

- A security deposit (or damage deposit) is often required by a landlord from a renter to cover possible damages to the rental property.
- In order to facilitate return of the deposit to the renter, a list of damages and necessary cleaning should be recorded with copies to renter and landlord, upon the day a tenant moves in.
- When a tenant moves out, the landlord has 30 days to return the deposit, unless stipulated differently in the written lease (not to exceed 60 days).
- If the full amount is not to be refunded, the landlord is required by law to provide a written statement within 30 days explaining the reason for any portion withheld.
- If a landlord does not comply with the law, a renter may take legal action.

A security deposit, damage deposit or cleaning deposit is any payment of money by a tenant to a landlord to cover damage or cleaning of the rental property.

A landlord cannot keep the security deposit to cover normal wear and tear. Thus, a landlord cannot charge a tenant for normal cleaning of the apartment or house. A landlord can keep all or part of the security deposit to cover damage caused by the tenant's negligence, or the tenant's carelessness or intentional abuse of the rental property.

A landlord must prove the amount of the damage to the apartment/house and that it was caused by the tenants and/or their friends. A landlord no longer can keep the security deposit and make the tenant prove that he or she should get it back. The burden is on the landlord to give back the deposit or prove that he or she has the right to keep it.

An understanding of security deposits will help renters get their deposits back when they move out.

## Moving In

- 1) The renter should keep a receipt for all deposits paid.
- 2) The renter should know how much of the first payment applies to the first month's rent and how much is actual damage or security deposit.
- 3) On the day a tenant moves in:
  - a) Any existing damages and necessary cleaning should be listed, preferably with the landlord or apartment manager present, noting all flaws, big and little. Not only will this help when the tenant moves out, but it lets the landlord know of repairs needed in the apartment. (Figure 1 shows a sample check sheet.)
  - b) One copy of the damage sheet should be given or sent by certified mail to the landlord.
  - c) One copy should be retained by the tenant. It is preferable to have all copies signed by both the tenant and landlord.
  - d) Pictures should be taken of anything that is

seriously damaged and the photos should be saved for the moving out process.

## Moving Out

1) The renter should furnish the landlord with a forwarding address. It is also wise to register a forwarding address with the local postoffice. Since the landlord complies with the law, if he or she sends a written statement of the damages to the tenant's last known address, it is important to provide the forwarding address.

If no forwarding address is provided, the last known address is the apartment or house the tenant has left.

2) The tenant must give the landlord proper written notice of intent to move out. Notice must be given within the time specified in the lease. If no time is specified in the lease, notice must be given within the time specified by law. Where the rental period is month to month, written notice must be given to the landlord 10 days before the end of the month. For example, if the rental period is from March 15 to April 15, the landlord must receive notice 10 days prior to April 15 (by April 5). (For more discussion on this, see Service in Action sheet 9.905.)

3) The tenant should inspect the premises on the day that he or she moves out. A tenant may want to have a neutral party witness the condition in which the house or apartment was left. Again, photos can be taken of the apartment condition when the renter moves out.

## Return of the Deposit

When a tenant leaves an apartment, the landlord has 30 days (unless a longer period of time, not to exceed 60 days, is stipulated in the lease) to send to the tenant's last known address the full amount of the security deposit or send to the tenant's last known address a written list of the damages caused by the tenant and the amount of money needed for repairs. If the deposit is larger than the amount required for repairs, the landlord must return the excess.

When the deposit has been wrongfully withheld, the tenant receives a judgment which may amount to three times the amount wrongfully withheld, plus court costs and attorney's fees. A renter should not hesitate to resort to legal action if necessary.

## Retrieving Unreturned Deposits

If the landlord does not comply with the law and fails to refund the deposit within 30 days, or withholds any portion for normal wear and tear, or if the tenant considers

1/ office of renter's information, associated students of colorado state university; legal aid service, associated students of colorado state university; alice m. morrow, csu extension assistant professor, home management (revised 12/1/75, formerly issued as service in action sheet no. 9.121)

the reasons for withholding invalid and wishes to pursue the matter further, there are certain steps to be taken.

The tenant may seek the assistance of an attorney or the tenant may choose to file a complaint in county court under Simplified Civil Action. Following are the procedures for filing a Simplified Civil Action.

The landlord should be sent a certified letter demanding the deposit be refunded within seven days under threat of legal action. The letter should cite violation of Colorado Revised Statute 38-12-103 and mention that 30 days has elapsed following the termination of the lease agreement.

Figure 2 is a sample letter for those renters who received neither a written explanation nor a refund of the deposit. Figure 3 is a sample letter for those renters who received a written explanation but do not agree with the amount withheld.

If, at the end of seven days, no word is heard from the landlord, the renter should go to the county courthouse in the county in which the house or apartment is located, and initiate a case. This requires the following procedure and precautions:

1) **The renter must have grounds to file.** Grounds include a) expiration of the 30-day period and either non-refund without explanation or fictitious claims for damage and withholding charges and b) seven days since landlord's receipt of the warning letter.

2) **The renter must obtain forms from the clerk of the county court.** Three forms are required to file a complaint: a) a white form entitled "complaint," b) a green form entitled "summons to answer," and c) a yellow form entitled "answer."

It is important that the tenant fill out the proper information on each form in duplicate. It is suggested that

FIGURE 1: SAMPLE CHECK SHEET.

Apartment No. ....	Address .....
Date Moved in .....	.....
CONDITION AT TIME OF CHECK-IN	CONDITION AT TIME OF CHECK-OUT
ITEM NUMBER	REMARKS

Sofa .....

Sectional .....

Easy chair .....

Straight back chair .....

End table .....

Dining table .....

Desk .....

Desk lamp .....

Floor lamp .....

Bookshelves .....

Bed .....

Chest of drawers .....

Mirror .....

Drapes .....

Shades .....

Cabinets .....

Carpet .....

Floors .....

Walls .....

Doors .....

Windows .....

Stove .....

Refrigerator .....

Approved at time of check-in on ..... Date .....

Signature of Landlord .....

Signature of Tenant .....

Approved at time of check-out on ..... Date .....

Signature of Landlord .....

Signature of Tenant .....

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he or she obtain a third copy of each form for personal reference.

The docket fee is \$9. The landlord should be served by the county sheriff or a process server. Cost of service is approximately \$2 plus 12 cents per mile.

Copies of the complaint, summons and answer forms should be returned to the office of the county court from which they were obtained. If the renter has questions, the desk clerk will be able to assist. The renter should be sure that the employee to whom he or she returns the forms gives the complaint a docket number, along with the return date. This will help insure that the landlord will have a deadline by which to answer the complaint.

If the name of the landlord is not known, but the name of the landlord's agent is (i.e., a real estate agent or an apartment manager), the agent may be served with the summons. (The County Assessor's Office can be useful in finding the legal owner of rental properties.)

NOTE: The landlord must be given at least 10 days in which to answer the summons.

If the landlord fails to file a written answer or fails to appear in court the judge may enter a default judgment against the landlord. If the landlord does answer, the case will be set for trial. A tenant must gather written evidence: copies of the lease, cancelled checks, damage deposits, letters and replies and photographs.

If the rental agreement with the landlord or realtor is written, the renter should check what liabilities might incur should he or she lose the suit. The renter must decide if it is worth about \$12-\$15 to retrieve a deposit often times in excess of \$100.

For more renter's information, see Service in Action sheets 9.904, 9.905 and 9.906.

FIGURE 2: FOR RENTERS WHO DID NOT RECEIVE A WRITTEN STATEMENT WITHIN THIRTY DAYS.

Date .....

Name of Landlord or Manager (or Registered Agent if owned by a Corporation) Address City, State, Zip .....

Certified Mail: Return Receipt Requested

Dear We, (name) (name) were the tenants at (address) # from (beginning date) until (ending date) \$ .00 was paid by us as a damage deposit. It has been more than 30 days since (ending date) We have received neither a written explanation nor the return of our deposit. Kindly send the full amount of \$ .00 to us at (address) (city & state) within seven (7) days of your receipt of this letter. If the full amount is not refunded, we intend to file suit under Colorado Revised Statutes 38-12-103, asking treble damages. Sincerely,

NOTE: One copy sent, one copy retained by tenant.

FIGURE 3: FOR RENTERS WHO DID RECEIVE A WRITTEN STATEMENT WITHIN THIRTY DAYS, BUT WHO DO NOT AGREE WITH CLAIMS FOR DAMAGES.

Date .....

Name of Landlord or Manager (or Registered Agent if owned by a Corporation) Address City, State, Zip .....

Certified Mail: Return Receipt Requested

Dear We, (name) (name) were the tenants at (address) # from (beginning date) until (ending date) \$ .00 was paid by us as a damage deposit. We have received your letter of (date) and do not agree with the deductions listed for the following reasons: Kindly send the amount of \$ .00 to us at (address) (city & state) within seven (7) days of your receipt of this letter. If the amount is not refunded, we intend to file suit under Colorado Revised Statutes 38-12-103, asking treble damages. Sincerely,

NOTE: One copy sent, one copy retained by tenant.

Note: One copy to be retained by landlord and one by tenant.

(This material should not be used as a substitute for seeking needed advice from attorneys and other qualified advisors.)