

HOW TO GET BACK SECURITY DEPOSITS



**Office of the Staff Judge
Advocate
Eielson AFB, Alaska**

354 FW/JA
Legal Assistance & Preventive
Law
Pamphlet Series

ALASKA LAW

The basic Alaska law on security deposits is Alaska Statute § 34.03.070. This handout summarizes the important aspects of Alaska law that relate to security deposits and will help you if you need to file a claim against your landlord.

IMPORTANT: If a lawsuit has already been filed against you, you should get legal advice from a civilian lawyer.

It does not matter what your landlord calls a deposit – cleaning fee, prepaid rent, key deposit, or security deposit. All deposits are generally refundable.

Your landlord may only keep your deposit to pay for:

- Rent you owe to the landlord
- Damage to the residence that is not “wear resulting from ordinary use”
- The cost of cleaning the residence so that it is in the same condition as when you rented it.

When you move in, your landlord may collect a deposit or prepaid rent in addition to your first month’s rent. Your total deposit and any prepaid rent cannot be more than twice the amount of your monthly rent. For example, if your rent is \$1,000.00 per month, your total deposit and any prepaid rent cannot be more than \$2,000.00.

If your landlord sells your building, the new owner must refund your deposit when you move out.

RETURN OF DEPOSITS WHEN PROPER NOTICE IS GIVEN

When you move out, you must first give your landlord proper notice (usually 30 days before the next rental due date). You should also tell the landlord where you will be receiving mail.

Within 14 days after you move out, your landlord must either return your deposit or send you a statement explaining what the deposit was used for and why you are not getting it back. Remember, your landlord can only charge you for damage or cleaning to put the apartment back in the same condition as when you rented it. But, your landlord cannot automatically take part of your deposit for cleaning rugs or painting the residence. Your landlord may only charge you for damage that is not considered “wear resulting from ordinary use.” If it has been more than 14 days since you moved out, and you think your landlord owes you some or all of your deposit, you can sue your landlord in small claims court. You can get the necessary information about small claims court at the courthouse at 101 Lacey St in Fairbanks, (907) 452-9267. If the judge finds that your landlord intentionally violated the Alaska security deposit law, the landlord may have to pay up to twice the amount of the money he kept.

IMPORTANT: If you start a case against your landlord, he or she will be able to make claims against you. So, if you owe your landlord more money than your security deposit, he will ask the judge to order you to pay him. You may not want to start a lawsuit unless you think that your landlord owes you more than you owe him.

RETURN OF DEPOSITS WHEN PROPER NOTICE IS NOT GIVEN

If you move out and have not given your landlord proper notice, the landlord has 30 days to return your deposit or send you a statement explaining why the full deposit is not being returned to you. You may be liable for rent for at least 30 days following the date you leave the residence or thirty days after your landlord realizes you are gone. If your landlord finds a new tenant, your responsibility for the rent may be reduced.

HOW TO PROVE IN COURT THAT YOU ARE ENTITLED TO A REFUND

Bring to court copies of any receipts or agreements that will prove how much money you paid to the landlord as a deposit. If your landlord claims you owe rent that you do not owe, bring in receipts showing that you made the rental payments.

If your landlord is claiming money for damages or cleaning, you need to prove that the residence was left in basically the same condition as when you rented it. Each time you move into a residence you should complete a housing condition checklist. Go through the residence with your landlord and fill out this form so that you both agree on the condition of the residence. If you do not fill out a housing condition checklist when you move in, you should be ready to tell the judge about the condition of the residence when you first moved in. When you move out, you should go through the residence with the landlord and have him sign the checklist. If this is not possible, have a friend go through the residence with you before you move out. Your friend can testify in court about the

condition of the residence. Also, take pictures of the residence so you can prove to the judge that you left it in good condition.

For more information consult the "Alaska Landlord and Tenant Act," published by the Alaska Court System available at:
<http://www.law.alaska.gov/department/civil/consumer/landlord-tenant.html>

This pamphlet is for basic information on how to get back security deposits as it relates to military personnel stationed in Alaska. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the 354th Fighter Wing Legal Office for questions and further information.



354 FW/JA
Tel: (907) 377-4114 / DSN 377-4114