

Tips on Preventing Security Deposit Theft

BEFORE MOVING IN

1. Conduct an inspection of the unit and complete a move-in checklist.

Every problem that you detail in completing the checklist is one less problem that might give your landlord an opportunity to withhold part of your deposit after you move out. In your checklist, note holes, cracks or stains, as well as more serious problems.

Complete a checklist even if the landlord fails to provide you with one. If the landlord's checklist is incomplete, then add areas or problems to the checklist.

2. Get your landlord to sign off on your move-in checklist.

Date the checklist and get the landlord/agent to approve it with their signature. If you can't get your landlord to sign a dated checklist, then mail a dated checklist to the landlord with proof of mailing.

3. Take photographs.

Focus on any damaged areas. If possible, use a camera that adds a date stamp to each photo.

DURING YOUR TENANCY

1. Keep a file containing your lease and all documents related to your tenancy.

2. Document all repair requests in writing and save a copy for your records.

If your repair requests are in writing, it will be harder for the landlord to claim that the cost of a repair should be deducted from your security deposit. Be aware that the landlord does not have the right to deduct repairs made during your tenancy from your security deposit.

If you orally request repairs, send a follow up letter or email to the landlord confirming your request, or send the landlord a "thank you" letter/email when repairs are completed, and keep a copy for your records.

WHEN YOU ARE READY TO MOVE

1. Two weeks before moving out, get the landlord to do an initial inspection of your unit, to identify possible security deposit deductions.

Make a request to the landlord, in writing, for this initial inspection.

The purpose of the inspection is to give you an opportunity to fix problems that could lead your landlord to make deductions from your security deposit, and to make sure you return your unit to the same level of cleanliness it was in when you began your tenancy. Cal. Civ. Code § 1950.5(f)(1).

a) You have a right to an initial inspection.

Once you give written notice to the landlord that you will be moving out, the landlord must notify you in writing, within a reasonable amount of time (at least two weeks before your move-out date), of your right to a unit inspection and your right to be present for the unit inspection. You have a right to the inspection, even if the landlord does not notify you of this right. *Id.*

b) *But it is up to you to request this inspection!*

If you are notified of your right to an inspection, and you do not request the inspection, the landlord is no longer obligated to inspect your unit and tell you about possible deductions. *Id.*

c) The landlord must give you 48 hours written notice before he/she does an inspection of your unit.

Whether or not you and the landlord agree on a date and time for the inspection, you are entitled to at least 48 hours notice, in writing, before the landlord comes to your unit for the inspection. If you can't agree on a date/time, the landlord can conduct the inspection without you, as long as you have been given 48 hours written notice, and you have not withdrawn your request for inspection. *Id.*

d) The landlord will give you a list of repairs that need to be made.

Based on the inspection, the landlord must give you an itemized statement listing the repairs or cleaning that will result in security deposit deductions. Cal. Civ. Code § 1950.5(f)(2).

2. Make the necessary repairs before moving out.

You have a chance to fix any problems that are your responsibility before you move out, in order to avoid deductions. Cal. Civ. Code § 1950.5(f)(3).

3. Keep track of the repairs that you make, and document the state of the apartment when you move out.

Document all the repairs you make or pay for. Keep receipts for professional cleaning services. Take photos of the repairs, or cleaning, before and after they are completed. Take time-stamped photos of the unit the day you move out. Also, ask a friend, family member, or neighbor to take a look at the unit after you have cleaned and moved all of your property out. All of this information, including witness testimony, can support you in obtaining your full security deposit directly from your landlord or in small claims court.

AFTER YOU HAVE MOVED: YOUR RIGHT TO YOUR DEPOSIT

1. You have a right to a complete return of your security deposit, within 21 days of moving out.

Cal. Civ. Code § 1950.5(g)(1).

2. Your landlord must provide you with a list of any deductions from your security deposit, and a reason for each deduction.

Within 21 days of moving out, the landlord must mail, personally deliver, or email (if you and the landlord agree to communicate by email) you an itemized statement indicating the reason for and the amount of any security deposit deductions. *Id.*

With any itemized statement, the landlord must send you copies of documents showing the money that the landlord spent to repair or clean the unit. Cal. Civ. Code § 1950.5(g)(2).

- If the landlord or landlords' employee did the work, the landlord must describe the work done, time spent, and reasonable hourly rate charged for the work. Cal. Civ. Code § 1950.5(g)(2)(A).
- If a 3rd party did the work, the landlord must provide you with the name, address, and phone number of the 3rd party who did the work, plus a copy of the bill, invoice, or receipt from the 3rd party for the work done in your unit. Cal. Civ. Code § 1950.5(g)(2)(B).
- If the landlord deducts for materials or supplies for repairing your unit, the landlord must provide you with a copy of the bill, invoice, or receipt for the materials or supplies. Cal. Civ. Code § 1950.5(g)(2)(C).
- If the repairs/cleaning has not been done yet, or the landlord does not yet have a receipt, the landlord can deduct based on an estimate of the cost of repairs. However, the landlord must provide you with receipts or documents within 14 days of when the repairs/cleaning are completed. Cal. Civ. Code § 1950.5(g)(3).

Exception: If the deductions for repairs/cleaning are \$125 or less, the landlord *does not* have to provide an itemized statement. Cal. Civ. Code § 1950.5(g)(4)(A).

AFTER YOU HAVE MOVED: IF YOUR LANDLORD DOES NOT RETURN YOUR SECURITY DEPOSIT

If your landlord does not return your security deposit within 21 days, or takes wrongful deductions from your deposit...

1. First, you should send a Demand Letter to the landlord.

The letter should be addressed to the landlord, from you, stating the amount you initially paid as the security deposit and the reasons why you believe you are entitled to a full refund, or why the deductions made are improper.

Tenants Together has two sample letters that will help you write a Demand Letter to the landlord. One can be used if the landlord has not returned *any* of your security deposit at all. The other can be used if the landlord has taken wrongful deductions from your deposit. These letters can be found at <http://tenantstogether.org/sampleletters>.

If the landlord *still* fails to return your full security deposit, or the amount you believe you are entitled to...

2. You can sue the landlord in small claims court.

You can sue the landlord for the amount of the deposit. If the landlord kept your deposit "in bad faith," you can sue for twice the amount of the deposit in damages. Cal. Civ. Code § 1950.5(l).

Look at your lease to find the exact name and address of the party you want to sue, which should be the landlord. Visit this website if you can't find either the name or address of the defendant in your suit: <http://www.courts.ca.gov/9736.htm>.

Before you go to court, you must show that you have already asked for payment from the defendant. Since you have already sent a demand letter to the landlord, you can bring a copy of the demand letter to your court hearing to show the judge, and/or attach it to your court papers. <http://www.courts.ca.gov/9739.htm>.

File your claim in the small claims court of your county.