



Residential Tenancies Program

Policy and Procedure Guide

Policy Number: 10-001
Subject: Application for Security Deposit
Chapter: Security Deposit

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| Legislation | s. 14, 17, 48.(c) |
| Definitions | <p>Holding Deposit: an amount of money paid by a prospective tenant to hold an apartment while a landlord reviews a tenancy application.</p> <p>Joint Tenancy: a tenancy in which 2 or more tenants, under the same rental agreement, share an undivided equal interest in the whole residential premises. Joint tenants are jointly and severally liable for the obligations of the rental agreement.</p> <p>Security Deposit: money or other value paid, or by a rental agreement required to be paid, by a tenant to a landlord to be held as security for the performance of an obligation or a liability of the tenant.</p> |
| Purpose | The purpose of this policy is to provide guidance on the disbursement of a security deposit. |
| Policy | <p>Application for Security Deposit</p> <p>If a landlord has collected a security deposit from a tenant, and if at any point during the tenancy, or after it has ended, the landlord believes that they are entitled to retain some or all of that deposit as compensation for a liability of the tenant, or as compensation for the tenant's failure to fulfil their obligations under the rental agreement, the landlord may either:</p> <ol style="list-style-type: none">1. Enter into a written agreement with the tenant on the disposition of the deposit, or2. File an Application for Dispute Resolution with this Division, seeking compensation for financial damages; and to retain the deposit to offset the financial damages. <p>Where the landlord and the tenant enter into a written agreement on the disposition of the security deposit, it is advisable that that agreement clearly specify how much of the security deposit is being retained by the landlord and for what reason.</p> <p>If the landlord has not entered into a written agreement with the tenant on the disposition of the deposit, and if they have not made application to this Division seeking to retain it, then the landlord is</p> |



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| | <p>required to return that deposit to the tenant within 10 days after the tenancy ends.</p> <p>Where the security deposit is not returned within those 10 days, the tenant may make application to this Division seeking an order that it be returned. The landlord has 10 days from the date the tenant serves them with that application, to file a counterapplication seeking to retain some or all of that deposit.</p> <p>If the landlord fails to make a counterapplication within those 10 days, the landlord loses any claim against the security deposit, and it will be ordered to be returned to the tenant. That order may be issued by this Division without a hearing being held.</p> <p>Security Deposit in Joint Tenancy</p> <p>If one tenant in a joint tenancy has paid the full amount of the security deposit, and if the receipt for the security deposit is made out in that tenant's name only, then that tenant alone may make application to this Division seeking a return of that deposit.</p> <p>Otherwise, all the tenants in the joint tenancy should be named on the application. In any counterapplication filed by a landlord, however, all of the joint tenants should be named and served, even if the security deposit was paid by only one tenant.</p> <p>Holding Deposits</p> <p>Where the parties have not entered into a rental agreement, and where there is no relationship of landlord and tenant, this Division has no authority to hear an application concerning a dispute about a holding deposit.</p> |
| Procedure Overview | <p>Hearing by Written Submission</p> <p>A tenant who files an application in which they are only seeking the return of a security deposit is not required to pay the \$20.00 filing fee. If the landlord has not already filed an application seeking to retain that deposit, that hearing may be conducted by written submission.</p> <p>A hearing by written submission will only proceed where:</p> <ul style="list-style-type: none">• The tenant has submitted evidence showing that they have paid a security deposit (e.g., a receipt, or some other acknowledgement of payment),• The tenant has submitted an affidavit of service establishing that the landlord had been served with the application at an address that the landlord had provided to the tenant, and• The landlord had not filed a counterapplication within the 10 |



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| | <p>days after receiving the tenant's initial application.</p> <p>Where a landlord files a counterclaim within the 10 days after being served, or where there is insufficient evidence showing that the tenant paid a security deposit, or insufficient evidence showing that the landlord had been properly served with the application, the hearing should be rescheduled for a teleconference hearing, to be conducted by an adjudicator.</p> <p>Order for Disbursement of Security Deposit without Application</p> <p>If a hearing is held after a tenancy has ended, the disposition of the security deposit shall be addressed by the adjudicator, regardless of whether the parties had identified that matter on their application. If the landlord is awarded anything, the deposit shall be set off against the award. If the amount of the award is less than the amount of the security deposit, the remaining amount of the deposit shall be ordered to be returned to the tenant, even if the tenant had not filed a counterapplication.</p> <p>Security Deposit Disbursed when Vacant Possession Ordered</p> <p>If, as a result of a hearing, the tenant is ordered to vacate the rented premises, and if that order also includes an order for a payment of money to the landlord, the security deposit shall be applied towards that award, regardless of whether the landlord had identified that matter on their application. Any remaining amount of the security deposit would not be ordered to be returned, though, as the parties have until 10 days after the tenant moves out deal with that deposit in accordance with the legislation.</p> |
| Forms & Form Letters | <u>Application for Dispute Resolution</u> |
| X-Reference | See Application and General Inquiries - section 01-006 of this manual. See Interest Rates for Security Deposits - section 10-002 of this manual. See Hearing Guidelines - section 11-003 of this manual |
| Policy Developed | September, 2000 |
| Last Revision | January, 2002 April, 2024 |
| Other Resources | N/A |



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