

## Illegal deductions

Landlords may **never** deduct for “normal wear and tear” or for other losses that the tenant is not responsible for under the law even if the tenant signed a nonstandard rental agreement authorizing these deductions (ATCP 134.06(3)(b) & (c)).

## Carpet Cleaning

It is illegal to deduct for routine carpet cleaning from the security deposit—even if you signed a lease that states that you must pay for carpet cleaning. The exception is if you damaged the carpet beyond “normal wear and tear.” If your landlord deducted money from your security deposit for routine carpet cleaning, inform your landlord in writing that it is illegal. If your deposit is not returned, file a complaint with Consumer Protection by calling (608) 224-4953, (800) 422-7128 or online at <http://datcp.state.wi.us>. Be aware that the landlord may still pursue this in small claims court.

## Can I cash a partial check?

A tenant does not have to wait to cash a check until the security deposit dispute is settled. Cashing a partial refund check does not waive the tenant’s rights to sue for the rest of the deposit (ATCP 134.06(2)(e)).

## Who should my deposit be returned to?

If the landlord returns the security deposit in the form of a check, all tenants’ names should be on it unless tenants indicate otherwise in writing (ATCP 134.06(2)(d)).

## Vocabulary

**Normal Wear and Tear** This is a term that Wisconsin laws do not define. It refers to the deterioration of the premises that occurs during normal conditions where the tenant cleans regularly and cares for the premises reasonably.

**Security deposit** The money a tenant pays to a landlord when entering into a rental agreement to guarantee the tenant’s obligations. It is any amount above one month’s prepaid rent (including all pet deposits, key deposits and furniture deposits).

## What if my landlord deducted money from my deposit unfairly?

If the landlord violates one of the rules mentioned in this brochure, you may take the following actions:

### Write a letter to your landlord

This letter should include the following:

- a description of the violation
- specific mention of the law(s) that have been violated (usually Wis. Administrative Code ATCP 134.06)
- an explanation that you could take further action, including small claims court for double the amount wrongfully withheld, court costs and reasonable attorney fees
- a reasonable deadline for the landlord to return the total deposit (for example, an exact date 5 days or 1 week away)

Be sure to date the letter and keep a copy for your records.

### File a complaint with Consumer Protection

You can easily file a complaint with the Department of Agriculture, Trade and Consumer Protection. The bureau keeps complaint records and will contact the landlord about the violation. For a complaint form, call (608) 224-4953 or (800) 422-7128 or fill one out at <http://datcp.state.wi.us>

### Sue in small claims court

After the deadline in your letter expires and the landlord doesn’t respond, you will want to consider filing against your landlord in small claims court for double what was wrongfully withheld plus court costs and reasonable attorney fees.

You must go to your county small claims court, fill out a simple “summons and complaint” form and pay the filing fee. This fee may be waived if you receive FoodStamps or BadgerCare. The landlord may not contest your case, may settle or may counter-sue you.

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The **Tenant Resource Center** is a non-profit, membership organization dedicated to promoting positive relations between rental housing consumers and providers throughout Wisconsin. By providing information and referrals, education about rental rights and responsibilities, and access to conflict resolution, we empower the community to obtain and maintain quality affordable housing.

# Security Deposits in Wisconsin



## Tenant Resource Center

1202 Williamson St. #102  
Madison, WI 53703

9:00 a.m. – 6:00 p.m., Monday – Friday  
[www.tenantresourcecenter.org](http://www.tenantresourcecenter.org)

**Rental Rights** (608) 257-0006  
[asktrc@tenantresourcecenter.org](mailto:asktrc@tenantresourcecenter.org)

**En Español** (608) 237-8913

**Toll-free** (877) 238 RENT (7368)

**Mediation** (608) 257-2799

**Business Line/TTY** (608) 257-0143

## Tenant Resource Center Campus Office

Student Activity Center  
ASM Office - Room 4301  
(608) 561-3727

[uw@tenantresourcecenter.org](mailto:uw@tenantresourcecenter.org)

## Housing Help Desk

1819 Aberg Ave. Room 2  
Madison, WI 53704

(Dane County Job Center)

(608) 242-7406, 10:00 a.m. – 2:00 p.m.

If you need an interpreter, materials in alternate formats, or other accommodations, call our office at (608) 257-0143.

No part of this brochure should be regarded as legal advice or considered a replacement of a landlord's or tenant's responsibility to be familiar with the law. If you need legal assistance, seek the services of a Wisconsin housing attorney.

**NOTE:** New law SB107 will change some local laws. These are indicated by ~~strickethrough~~ or **bold**. Whether they affect you depends on when the law is signed and when the lease went into effect.

**If you live in the City of Madison you have additional rights. For more information visit the Tenant Resource Center office or the website.**

## What is a security deposit?

State law defines a security deposit as “all of the money” a tenant pays to a landlord when signing a lease, including any prepaid rent above one month’s rent (such as pet deposits, key deposits and furniture deposits). Deposits are kept as a guarantee the tenant will pay the rent and not damage the apartment.

## How much can my landlord charge?

State laws place no limit on the amount landlords can charge for security deposits. ~~There are limits in the City of Madison and in Fitchburg.~~

## How do I protect my security deposit?

### **Fill out a check-in form.**

Your landlord should give you a check-in form; if not, make your own or get one from the Tenant Resource Center (also on our website). Landlords must allow tenants **at least** seven days to fill out a check-in form. **Make a copy of the completed check-in form for yourself and give the original to your landlord.**

When filling out the check-in form, be thorough. The landlord cannot charge you for any existing damages that you include on the check-in form. Note problems such as the following:

- stained carpets or damaged floors
- cracked windows
- torn or missing screens, damaged blinds
- nail holes, cracked paint, peeling wallpaper
- dirty conditions, fixtures and appliances
- stained walls and ceilings
- plumbing, sinks, bathtubs and tiles that are worn, dirty, mildewed or not working properly

- missing light bulbs or glass light covers
- electrical outlets or other items that do not work (light switches, stove burners, oven coils, etc.)
- countertops that are stained, scratched, or damaged.

### **Get a witness**

If you have a friend who isn’t living with you, have them witness the conditions at move-in. Have them initial your check-in form or write a statement of what they saw.

### **Take photos**

Carefully photograph the apartment when you move in, being especially careful to document all damage. Send or e-mail photos to your landlord soon after of moving in and keep a second set (digital, hard copies, or negatives) for yourself.

### **Make a video**

If you have a camcorder, document the condition of the apartment, especially damaged areas.

### **Read your Nonstandard Rental Provisions**

This is the part of the lease where the landlord must note all things that they will take from the security deposit beyond what the law states they may remove. Make sure the landlord is not charging liquidated damages (random fees) where actual fees may be calculated. Example: Charging a \$500 fine for having a beer keg in your apartment.

## What should I do before leaving an apartment?

Try to schedule a check-out appointment with your landlord. If your landlord agrees to do this, make sure you leave with a signed copy of the check-out form. If the landlord notes things are dirty or damaged, offer to clean or fix them.

If your landlord refuses to go through the apartment with you, complete your own check-out form and take pictures documenting the condition of the apartment. Consider having the same witness who was present for check-in help with the check-out.

If your landlord presents you with a check-out form that indicates damages that you or your guests did not cause, do not sign it. Instead, complete your own check-out form and keep a copy. You should also take pictures to prove the condition of the apartment.

Leave your forwarding address on the check-out form or mail it to the landlord. Keep copies of everything!

## When must my landlord return my deposit?

The landlord has 21 days after the end of your lease to send you either the full security deposit or an itemized list of deductions (ATCP 134.06(2)(a)). If the landlord doesn’t return a deposit within 21 days, then the law allows you to take further action, but doesn’t necessarily say that the landlord waives the right to withhold from the security deposit after the 21 days.

## What if I move out early?

If you move out before the lease is over, return the keys to the landlord and write a letter stating which day you are moving. The 21 day countdown starts on the day that you “surrender the premises.” You must notify the landlord in writing if you move out early, otherwise you will have to wait until the lease is over to get your security deposit back (ATCP 134.06(2)(b)).

## What if I don’t receive my deposit or list of deductions?

If the landlord does not return the full deposit or a detailed list of deductions within 21 days after you move out, you can sue the landlord for double the amount of the deposit plus court costs and reasonable attorney fees (Wis. Stat. 100.20(5)).

## What might my landlord deduct for?

### **Standard legal deductions**

- unpaid rent (some exceptions in Wis. Stat. 704.29)
- unpaid utilities owed under the rental agreement or for which the landlord becomes responsible
- damages caused by the tenants or their guests that go beyond “normal wear and tear”
- unpaid mobile home parking fees.

### **Nonstandard legal deductions**

Your landlord can deduct for reasons other than those listed above if you initialed provisions on separate page titled “NONSTANDARD RENTAL PROVISIONS” when you signed your lease. This may include late fees, etc.