

# Frequently asked Questions: Security Deposits

## What's the difference between an earnest money deposit and a security deposit?

A security deposit is an upfront deposit that most landlords require tenants to pay before they move into a rental unit. The law defines it as “the total of all payments and deposits given by a tenant to the landlord as security for the performance of the tenant’s obligations, and includes all rent payments in excess of 1 month’s prepaid rent.” ATCP 134.02(11).

An earnest money deposit is an amount paid by a tenant for the option to enter into a rental agreement in the future. It is usually paid with the rental application. If the landlord approves the application and the tenant enters into the rental agreement, the landlord must refund the earnest money deposit, or apply it to rent or the security deposit. ATCP 134.02(3).

## KNOW YOUR RIGHTS

Normal wear and tear of the rental unit cannot be deducted from a security deposit. This includes carpet cleaning. Wis. Stat. 704.28(3).

## When does a landlord need to return my security deposit?

Landlords must deliver the full security deposit and/or an itemized list of deductions from the security deposit **within 21 days** of any of the following:

- If you leave at the end of the lease, the date the lease ends
- If you move out or are evicted before the end of the lease, the date on which your rental agreement terminates or, if the landlord re-rents the premises before your rental agreement terminates, the date on which the new tenant’s tenancy begins
- If you move out or are evicted after the lease has ended, the date the landlord knows you left the unit

ATCP 134.06(2)

check out [tenantresourcecenter.org](https://tenantresourcecenter.org) for more information!

## What kind of things should I note on the check-in sheet?

- damaged floors (stained or torn carpets, scratched or water-damaged wood or linoleum, etc.)
- cracked windows and torn or missing screens
- dirty conditions
- outlets and light switches that don’t work properly
- broken or dysfunctional appliances
- cracked paint, peeling wallpaper, holes (check the walls and ceilings!)

Consider taking photos or videos with a time stamp to accompany your check-in sheet. Keep copies for yourself!

## What can I do if the landlord doesn't follow these rules?

If a landlord does not return the security deposit and/or the list of deductions within the required 21 days, or if the landlord deducted costs from a security deposit that should not have been deducted, consider these 3 main options:

- Write an email or letter to the landlord specifying the issue(s) that needs to be addressed. You should also confirm the landlord has your new address.
- File a complaint with the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP). The complaint can be filed online or over the phone at (608) 224-4953 or (800) 422-7128.
- Sue the landlord in small claims court. If a court finds that the landlord violated the laws on security deposits, the tenant may be awarded twice the amount of their damages plus costs and reasonable attorneys’ fees. Wis. Stat. 100.20(5).