

DEPOSITS AND BONDS

Most Landlords will ask for a deposit or bond when you sign a contract or take up a tenancy. This is normally held as security against:

- damage to fixtures and fittings exceeding "fair wear and tear"
- missing items listed on the inventory

In practice the landlord may also seek to make deductions to cover unpaid rent and unpaid bills.

Your tenancy agreement should state what can be deducted from the deposit. The amount of the deposit may vary although it is often equivalent to a month's rent. If you have an Assured Shorthold Tenancy, or an Assured Tenancy, the maximum deposit should be no more than one sixth of the annual rent.

TENANCY DEPOSIT PROTECTION

Until recently many tenants had problems getting their deposit back when their tenancy ended as Landlords sometimes withheld part or all of the deposit. However the Government has introduced the Tenancy Deposit Scheme to ensure more protection for tenants.

Who is covered?

Most Assured Shorthold Tenants in England and Wales who signed their housing contract after 6th April 2007.

How does it work?

When you pay your deposit to your Landlord they *must* protect it using one of the government authorised tenancy deposit schemes (see contacts for details of the schemes). Your Landlord should give you details of the scheme they are using within 14 days of you paying the deposit.

if you haven't had full details of the Scheme provided to you don't take your landlords' claim that it is secure, check with the relevant deposit schemes to make sure. If you suspect that your deposit is not protected seek advice.

When you move out you should have your deposit returned with 10 days. If there are any disputes at the end of the tenancy the Tenancy Deposit Scheme will offer a free, independent and (in theory) speedy 'alternative dispute resolution' service (ADR).

What if my Landlord has not signed up to the scheme?

You can apply to the County Court who can order your Landlord to repay your deposit or to join the scheme. They can also order your Landlord to pay you up to three times the deposit as a penalty in some circumstances.

For further information see www.direct.gov.uk/tenancydeposit

BEFORE YOU MOVE IN

You can avoid problems with deposits at the start of the tenancy if you:

1. Try to rent a property from a Landlord registered with the University's Accommodation Service on Howard Street (See Contacts). These Landlords have agreed to a code of practice, with guidelines on the return of deposits.
2. Always have a written agreement with the Landlord detailing:
 - how much the deposit is
 - what it is held for and why it could be retained
 - how it will be returned at the end of the tenancy.

This information may be written into the contract. The Advice Centre can check your contract, before you sign it.

3. Always get a detailed receipt for any money you pay towards the deposit and rent.
4. Make sure the Landlord provides an inventory of the property, listing the fixtures and fittings and their condition. If the Landlord does not provide an inventory, you should compile one yourself and have it signed by an independent witness. It would help to take dated photos of the property and its fixtures and fittings.

DURING THE TENANCY

You can avoid problems with deposits during the tenancy if you:

1. Report any damages which are not your fault by writing to the Landlord and keep a copy. These could be damages caused by a break-in, or 'fair wear and tear' (the natural deterioration of the property over time).
2. Report any repairs needed to the Landlord in writing and keep a copy. This means you have proof that you have informed the Landlord.

3. Don't damage the property!! If the property is damaged due to your actions or negligence then your Landlord is perfectly within their rights to use your deposit to cover the reasonable costs of repairs/replacements/cleaning.

AT THE END OF THE TENANCY

You can avoid problems with deposits at the end of the tenancy if you:

1. Ask the Landlord to inspect the property before you move out. This will give you both some time to sort any problems out.
2. Ensure the property is clean when you move out.
3. Collect evidence of the state of the property before leaving:
 - take photographs
 - get a report signed and dated by an independent witness.
4. Ask the Landlord to clarify how the deposit will be returned. Some students withhold rent equivalent to the amount of the deposit at the end of the tenancy. This is not legally the correct procedure, although some Landlords are happy with this arrangement. Check with your Landlord and get any agreement in writing.

IF YOU HAVEN'T HAD YOUR FULL DEPOSIT RETURNED

If your deposit is protected by a Tenancy Deposit Scheme?

Contact the scheme that your deposit is covered by for details on how they resolve disputes.

If your deposit has not been protected with a Tenancy Deposit Scheme

If your deposit has not been returned after 10-14 days, you can follow these steps to try to get your money.

1. Write to your Landlord and keep a copy. Your letter should state:
 - the date you moved out of the property
 - you would like your deposit returned
 - you want to see a breakdown of any deductions made and receipts, e.g. for cleaning costs.
 - A date by which you would expect a response to your letter.

2. If the deposit is not returned or you do not agree with the deductions, write a second letter to your Landlord and keep a copy. Your second letter should include:

- why you disagree with the deductions
- proof of the condition of the property and its contents e.g. photos, inventory, reports
- that you are prepared to take action in the Small Claims Court

Example Letter

Dear Sir/Madam

Further to my previous letter (date) I am writing to remind you that I have not yet received a refund on my deposit of £

The deposit was paid on the understanding that it would be refunded at the end of the tenancy if there was no damage to the property. When I left the property on (date) you agreed that it was clean and tidy and that no damage had been caused. That was six weeks ago and I am still waiting for the return of my deposit despite several requests.

I am therefore writing to request that you return my deposit within 7 days or I will be forced to take action in the Small Claims Court to recover the money owed.

Yours faithfully,

SMALL CLAIMS COURT

If the Landlord does not respond or negotiations have broken down the next step is the Small Claims Court in the County Court. This is not part of the Criminal system, it is a Civil Court. The Advice Centre can advise on the process of issuing a claim in the small claims court. You are expected to have attempted to try and resolve the problem prior to issuing a claim. Court action should only be used as a last resort.

The small claims court can look at claims up to a maximum of £5000. To make a claim contact Sheffield County Court (see Contacts).

Filling in the Forms

You can download forms from www.hmscourts-service.gov.uk. The Advice Centre also has a stock of forms.

If you are claiming the return of your deposit after the end of your tenancy, use form N1. If you are applying to the court before the end of the tenancy to ask for your deposit to be protected, use form N208.

Always keep a copy of the forms and any evidence.

The claim form is submitted to the County Court. The Advice Centre can help if you are not sure how to go about making a claim.

Court Costs

Students on a low income can apply to the court for a 'fee remission'. This can reduce or remove the costs of making a claim.

The small claims process is designed to be used by the general public without a solicitor. There is nothing to stop the Landlord or yourself employing a solicitor but you cannot usually claim back the full cost even if you win the case so you should think carefully about this.

Going to Court

- The court will send you details of the hearing. If you cannot attend, ask for an adjournment.
- You should prepare a defence against any counter claim.
- You must submit any evidence at least 14 days before the hearing. This could be copies of letters, contracts, photos, witness statements, receipts, cheque stubs. You must notify the defendant and the court of the names and addresses of any witnesses at least 7 days before the hearing.
- Each side explains their case and the judge asks the other side to comment - It is up to you to prove your case, with as much evidence as you can.
- The judge makes a decision at the hearing or at a later stage and notifies you by post. If you win your case, the Landlord will have to pay you some or all of the deposit.
- Complicated cases, which test points of law, may be moved to a higher court. As legal costs can be awarded at this level, costs really start adding up at this level (Seek further advice).

CONTACTS

Advice Centre

The HUBS

Paternoster Row

Sheffield

S1 2QQ

Tel: 0114 225 4148

Fax: 0114 225 4943

Email: advicecentre@shu.ac.uk

Web: www.hallamunion.org/advice

Sheffield Combined Court Centre

The Law Courts

50 West Bar

Sheffield

S3 8PH

Tel: 0114 281 2400

www.hmcourts-service.gov.uk

Sheffield Housing Aid Centre

3rd Floor

Howden House

Union Street

Sheffield

Tel: 0114 273 5450 (public advice line available: 1pm-4pm Monday, Tues & Thurs) or drop in

www.sheffield.gov.uk/in-your-area/housing-services/private-sector-housing/private-landlords

SHU Accommodation Services

38 Howard Street

Sheffield

S1 1WB

Tel: 0114 225 5555

Tenancy Deposit Schemes:

Tenancy Deposit Solutions

www.mydeposits.co.uk

0844 980 0290

The Tenancy Deposit Scheme

www.thedisputeservice.co.uk

0845 226 7837

The Deposit Protection Service

www.depositprotection.com

0844 4727 000