

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 reality it can also be held for unpaid rent and unpaid bills.

Your tenancy agreement should state what could be deducted from the deposit. The amount of the deposit may vary; it is usually £100 to £200. If you have an Assured Short hold 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 which should ensure more protection for tenants.

Who is covered?

From 6th April 2007 nearly all Assured Shorthold Tenancies in England and Wales signed after this date.

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). Your Landlord must give you details of the scheme they are using within 14 days of you moving in.

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 offers free, independent and (in theory) speedy dispute resolution scheme.

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.

For further information see <http://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 photos with dates on 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 bond to cover the costs of repairs.

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 and some are not. Check with your Landlord.

IF YOU HAVEN'T HAD YOUR DEPOSIT RETURNED

Are you covered by the Tenancy Deposit Scheme?

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

If you are not covered by the 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
 - the property was clean when you left
 - you would like your deposit returned
 - you want to see a breakdown of any deductions made and receipts, e.g. for cleaning costs.
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 less formal part of the 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.

The limit to claims is £5000 at present. To make a claim contact Sheffield County Court (see Contacts).

Filling in the Forms

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

If you are claiming a fixed amount of money, use form N1. If you are not sure of the amount you want to claim and you want the court to decide, fill in form N208. (Seek advice)

You will need to complete your name and address and your Landlord's name and address.

- Under "particulars of claim," fill in details of your case clearly and concisely.
- You can continue on a separate piece of paper. Make sure you note your name (claimant) and the Landlord's name (defendant).
- Attach copies of correspondence to the Landlord, the tenancy agreement and the receipt of the deposit.

When you have completed the forms, hand it into the County Court. They will issue the Landlord with a summons and s/he has 14 days to reply. If they miss the time limit, you can automatically win the case.

Always keep a copy of the forms and any evidence.

Costs

Students on a low income and people claiming benefits can fill in a fee waiver form, to avoid paying the costs of issuing their claim form. Legal Aid is not available for the Small Claims Court.

There is nothing to stop the Landlord or yourself employing a solicitor. However as, even if you win, the maximum cost you can claim is a small fixed fee if a solicitor filled in the claim form, and legal aid is not available in the small claims court, it is rarely worth doing so.

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).

Conclusion

The new Tenancy Deposit Scheme should offer real protection to tenants; however it is currently too early to tell how well the scheme has been working. As ever, if things are not going to plan - contact the Advice Centre.

CONTACTS

Sheffield County Court

50 West Bar

Sheffield

Tel: 0114 281 2400

<http://www.hmcourtsservice.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 call in- in person

SHU Accommodation Services

38 Howard Street

Sheffield

Tel: 0114 225 4504

Tenancy Deposit Schemes:

Tenancy Deposit Solutions

<http://www.mydeposits.co.uk>

0871 703 0552 (Monday- Friday 8.30 am to 5.30 pm)

The Tenancy Deposit Scheme

<http://www.thedisputeservice.co.uk>

0845 226 7837

The Deposit Protection Service

<http://www.depositprotection.com>

0870 707 1 707