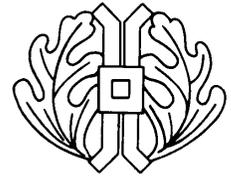


PREVENTIVE LAW SERIES

SECURITY DEPOSITS



Prepared by:
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What is a security deposit?

A security deposit is any payment, fee, or charge, other than the first month's rent, that the tenant pays when he moves into a rental unit. Cleaning deposits and pet deposits are beyond the first month's rent and therefore are part of the security deposit. Security deposits must be refundable, and a landlord may not represent the contrary. The security deposit may not be more than the value of two months rent for an unfurnished unit, or more than three months rent for a furnished unit.

Increasing a Security deposit

In order to increase a security deposit, the landlord must give written notice. The notice must be at least as long as the rental period between the rent payments. The tenant may agree to a shorter notice period in the lease agreement, but the period may be no less than seven days. The landlord may not increase the security deposit if the amount already equals the above limits. Additionally, if the tenant and the landlord executed a lease agreement, the amount of the security deposit may not be increased unless the agreement allows it.

Reasonable deductions

The landlord must refund the security deposit less any proper deductions when the tenant moves out. The following is a list of proper deductions:

- for unpaid rent;
- for cleaning the rental unit, if it was not as clean as when it was rented;
- for repairs other than normal wear and tear; and
- if allowed by the rental agreement, for the cost of restoring or replacing furniture, furnishings, or other items of personal property exclusive of ordinary wear and tear.

Any deduction from the security deposit must be reasonable. The landlord may not use a security deposit to repair damage from normal wear and tear or to repair defects in the unit that preceded the tenant. If the tenant caused damage to the unit at a cost in excess to the security deposit, the landlord may recover the excess from the tenant.

Recovering the security deposit

The tenant should give the landlord a forwarding address when he moves out. The landlord must within 21 days return the security deposit with a list of itemized deductions, if any. If the landlord fails to return the deposit within this period or makes deductions that the tenant disputes, the tenant should write to the landlord explaining his position. The letter should state why the deductions are improper and have the difference refunded. This letter should be sent certified mail return receipt requested and the tenant should keep a copy.

If the landlord fails to return the security deposit or make deductions that the tenant disputes and the tenant has been unable to resolve the matter informally, the tenant may sue the landlord in small claims court. However, the tenant may not sue for more than \$5,000 in small claims court. The landlord must prove that the amount deducted was reasonable and necessary. Additionally, if the court determines that the landlord acted in "bad faith" in his refusal to return the deposit, the court may also award an additional \$600.

If the landlord sells the property

If the landlord sells the property he must do one of the following: (1) return the deposit to the tenant, or (2) transfer the deposit to the new landlord. In either case the landlord may make deductions from the deposit just as if the tenant had moved out. The new landlord may be able to increase the deposit to replace the amount deducted. If the selling landlord returns the deposit to the tenant, the buying landlord may collect a new security deposit. If the selling landlord transfers the deposit, he must give the tenant notice in writing of the buying landlord's name, address, and telephone number. If the selling landlord fails to transfer or refund the deposit, then both landlords may be liable for the security deposit when the tenant moves.

LEGAL ASSISTANCE APPOINTMENTS:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

RESOURCES:

California Department of Consumer Affairs: 1-800-952-5210, <http://www.dca.ca.gov>
California Civil Code Section 1950.5