



PREVENTIVE LAW SERIES

HOW TO KEEP YOUR SECURITY DEPOSIT



Prepared by:
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New PCS orders? Moving again? As a result of the transient nature of military, service members often have to deal with the hassle of trying to get their security deposit back from their landlord. Some landlords may attempt to retain a security deposit as a penalty for terminating a lease early due to PCS orders. Service members should be aware that a landlord may not legally retain any portion of a deposit as a penalty for terminating a lease early due to PCS orders, or due to a deployment for more than 90 days.

SERVICEMEMBERS CIVIL RELIEF ACT

The Servicemembers Civil Relief Act allows service members under PCS orders to terminate a residential lease early, without penalty, regardless of whether or not there is a military clause stated in the lease agreement. This was not always the case, and some landlords may need to be educated that the lack of military clause in the lease is no longer relevant. The SCRA is a federal law that protects service members in every state. The tenant must give the landlord written notice of their intent to terminate the lease at least 30 days prior to the next due rental payment, as well as provide a copy of their new PCS orders, or, in the case of a deployment, substantiating documentation of the deployment from the commanding officer. If these steps are complied with, then the landlord may not retain any portion of the security deposit as an early termination penalty.

CALIFORNIA LAW

Under California Civil Code § 1950.5, a tenant is entitled to a walk-through pre-inspection just before they move in and a walk-through inspection of the premises after they move out. A tenant is advised to document all damages and to take pictures if necessary. Near the end of the lease, the tenant must be given reasonable time to fix any defects found in the pre-inspection walk-through inspection. After the tenant lawfully vacates, a landlord then has 21 calendar days from the day the tenant moves off the premises to either return the security deposit, or to give the tenant an itemized list of all deductions taken from the security deposit. A landlord is not allowed to charge a tenant for normal wear and tear to the premises. If the service member has kept the proper documentation of all damages noted in the pre-inspection, the landlord will not typically be able to list any additional damages that were not noted during the walk through, except for damages not reasonably found. This will prevent the landlord from retaining the security deposit as a penalty by claiming false damages, in order to get around the SCRA. If the landlord fails to either return the deposit or provide a list of deductions taken, the tenant has the right to sue the landlord in small claims court.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday from 0800 - 1100 and 1300 - 1500, Tuesday through Thursday from 0900 - 1100 and 1300 - 1500, and Friday from 0900 - 1045. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island - Coronado, Building 318 - Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

Servicemembers Civil Relief Act, 50 U.S.C. App. §§ 501 et seq. (2012)
California Civil Code § 1950.5 (2013)

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