

## **GUIDELINES FOR RETURN OF SECURITY DEPOSIT**

### **BASIC RULES GOVERNING SECURITY DEPOSITS**

1. Landlords are allowed to charge a security deposit and almost all landlords do.
2. The total amount a landlord charges cannot be more than the amount of two months' rent for an unfurnished rental unit or three months' rent for a furnished unit.
3. A security deposit cannot be non-refundable. However, part or all of the deposit can be retained under certain circumstances, such as if you move out and still owe rent or leave the unit in a damaged condition.

### **REFUND OF SECURITY DEPOSITS**

1. California law specifies a procedure that a landlord must use if the landlord keeps any or all of a security deposit.
2. A landlord may use your security deposit for four purposes only:
  - a. For cleaning the rental unit after the tenant moves out, if the unit was not as clean as when it was rented.
  - b. For repairs other than normal wear and tear caused by the tenant or the tenant's guests.
  - c. If the rental agreement allows it, for the cost of restoring or replacing furniture, furnishings, or other items of personal property, exclusive of ordinary wear and tear (including keys).
  - d. For unpaid rent.
3. A landlord can withhold from the security deposit only those amounts that are **REASONABLY NECESSARY** for these purposes. The security deposit cannot be used to clean or repair items damaged **only** by normal wear and tear, for repairing defects that existed before the tenant moved in, or for cleaning a unit that is as clean as it was when the tenant moved in.
4. Your landlord must, **WITHIN TWENTY-ONE DAYS** after you move, either send you a full refund of the security deposit, or an itemized statement that lists reasons for and amounts of any deductions from the deposit, with a refund of any amounts not deducted.

### **LEGAL ACTIONS FOR OBTAINING REFUNDS OF SECURITY DEPOSITS**

1. First, tell the landlord why you believe it is improper for him/her to keep all or part of your deposit. Immediately ask for a refund of the amount you believe you are entitled to. Put this request in writing and send it to the landlord by certified mail and request a return receipt to prove that the landlord received the letter. Also, be sure to keep a copy of the letter and the receipt for your files. Sample letter is attached.
2. If the landlord still does not send you the refund, you have two options:
  - a. You may want to take legal action by filing a claim in small claims court. (See below ).
  - b. Contact one of the agencies listed below for assistance:
    1. Legal Assistance Office (831) 242-5083
    2. Housing Office (831) 656-5010

3. Monterey County District Attorney, Consumer Protection Division. Call for complaint form: (408) 647-7773

#### **SMALL CLAIMS COURT**

1. File suit in small claims court for the security deposit plus any court costs, and possibly also a \$200 penalty and interest. The maximum amount that can be claimed in small claims court is \$5,000. You do not need an attorney to file a claim in small claims court and the Presidio of Monterey Legal Assistance Office will help you prepare your case.

2. For amounts over \$5,000, you must file in municipal or superior court. You will need an attorney to file in either of these courts.

#### **SAMPLE LETTER TO LANDLORD WHEN FULL SECURITY DEPOSIT AND RENT HAS NOT BEEN RETURNED TO SERVICE MEMBER**

1. Rewrite to fit your facts and circumstances.
2. Send certified mail.
3. Keep a copy for your files.
4. Keep a copy for small claims court judge.