

Asking Your Landlord to Return Your Security Deposit

Note: Use these instructions and form letter to write a letter to the landlord. In the letter you will ask the landlord for your security deposit back.

These instructions and form letter may not be right for your case. They cannot take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Do not change this form letter. If you change the form letter, you might lose language you need.

What form will I need?

You only need one form. The form is the letter at the end of these instructions. The letter begins on page 7 of this packet.

Who can use this form letter?

You can use this form letter if you:

- Moved out less than 30 days ago,

OR

- Moved out more than 30 days ago; AND
 - The landlord did not give any part of your security deposit back, or gave you less than you think you deserve; OR
 - The landlord did not give you a list of deductions (charges) made from your security deposit, or you disagree with the list of deductions the landlord gave you.



CAUTION: It may be better to wait more than 30 days after you move to send your letter to the landlord. The law says your landlord must send you a list of deductions no more than 30 days after you move out. If your landlord waits more than 30 days to send you the list, the law does not allow the landlord to keep any of your security deposit for cleaning or damage. So, if you send your letter before the 30 days is up, your landlord could send you a list within 30 days that deducts for cleaning or damage. A landlord who makes deductions after 30 days cannot legally deduct for cleaning or damage.

When can I expect the landlord to respond to this letter?

If it has been more than 30 days since you moved, you should give the landlord a reasonable amount of time to respond to your letter. This form asks the landlord to respond within 14 days. 14 days is usually a reasonable amount of time.

If it has been less than 30 days since you moved, please read the next section. You can ask the landlord to respond to your letter within 14 days, but the law lets the landlord have up to 30 days after you move out to return your security deposit.

What can I expect the landlord to send me?

If you moved out less than 30 days ago:

- If the landlord is not taking anything out of your deposit, the law requires the landlord to send your deposit back no more than 10 days after the end of your rental agreement.
- If the landlord is keeping part of your deposit, the landlord must send you two things within 30 days of the end of your rental agreement: 1) a list of what the landlord is keeping from the security deposit for cleaning, damages, unpaid rent or utilities, or other lawful charges, and 2) any of your deposit that is left after the landlord takes out the charges for unpaid rent or utilities, cleaning, damages, or other lawful charges.

If you moved out more than 30 days ago:

The landlord must give you a written list of anything the landlord takes out

of your security deposit, or refund your security deposit, within 30 days after your tenancy ends. Your tenancy ends either when you move out and give the keys back to the landlord, or when your rental agreement says it ends. Usually, it is whichever date is last. If the landlord has not given you anything within 30 days, the law says that the landlord can't keep part of your security deposit to pay for damages or cleaning. That law is Section 70-25-203, MCA. But the landlord can still deduct from your security deposit for lawful charges other than damages and cleaning. Lawful charges can include unpaid rent, utilities, penalties due under the rental agreement, late charges, or any other money you owe to the landlord.

Note: If you caused actual damages to the rental, Section 70-24-427 MCA gives the landlord the right to sue you for those damages even if the landlord did not follow the right steps to keep your security deposit.

I sent the letter, the landlord sent nothing. What can I do?

You can sue the landlord if more than 30 days have passed since the date you moved out and:

- The landlord did not send you anything at all, or
- The landlord sent you less than what you think the landlord owes to you.

What if I do not want the landlord to know my new address? How do I get my security deposit?

At the end of the form letter, you can ask the landlord to mail your security deposit. If you do not want the landlord to know your new physical address, you can use a Post Office Box number or the physical address of someone you trust. If you use the address of someone you trust, make sure the person agrees to give you whatever the landlord sends to that person's address.

How do I use the form letter?

1 Complete the form letter and sign it

- Check the boxes that are right for your situation.
- Make sure all of the blanks on the form letter that apply to you are filled in completely.
- Sign the form letter on the blank that says “(sign your name).”

2 Make a copy

- Make a copy of the completed and signed letter for yourself. Keep the copy in a safe place. It may be important if you have to go to court.

3 Deliver the letter to your landlord

You have two choices of how to deliver the letter to the landlord:

- Hand-deliver the letter to the landlord. You must either: (1) hand the letter to the landlord in person, or (2) leave it at the landlord’s place of business. You can only leave the letter at the Landlord’s place of business if the landlord made the rental agreement through that business. It is a good idea to bring two copies of the letter. If possible, ask the landlord to sign and date one copy of the letter as “received.” Keep that copy as proof that the landlord got your letter, and give the landlord the second copy. In case the landlord will not sign the letter, bring someone with you when you hand-deliver the letter to the landlord. That person can testify in court later if the landlord denies receiving your letter. The notice period starts on the day you hand the letter to the landlord. For example, you hand-deliver the letter on April 2. The letter gives the landlord 14 days to respond. The landlord should respond by April 16.

OR

- Mail the letter to the landlord. It is a good idea to mail the letter by first-class mail with a Certificate of Mailing. The post office will charge more for the Certificate of Mailing. Keep the Certificate of Mailing receipt. That is your proof that you sent the letter. With a Certificate of Mailing, the landlord will not have to sign anything to get your letter. The landlord cannot refuse delivery. The notice period starts the 3rd day after the date that you mailed the letter. For example, you mail the letter on April 2. The letter gives the landlord 14 days to respond. The landlord should respond by April 19. Count 3 days from April 2 for mailing and you get to April 5. Then, count the 14 days to respond, and you get to April 19.

Where can I get more information?

The laws of Montana are called the Montana Code Annotated or “MCA.” The laws about getting your security deposit back begin in the MCA at Title 70, Chapter 25, Part 201. An easier way to write that is: § 70-25-201, MCA. The symbol § means section. You can find the MCA at your local library, or on the Montana State Law Library website at <https://courts.mt.gov/library> Click on the “Montana Resources” option, then click on the “Legislative Branch” tab and select “Current Montana Code Annotated.”

The letter to the landlord refers to specific sections of the MCA. It is a good idea to read those sections of the MCA before you send the letter to the landlord.



Where Can I Get Legal Help?

These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low-income people. To find out if you qualify for MLSA, call the MLSA

HelpLine at 1-800-666-6899 or apply online at mtlsa.org.

- **The State Bar Lawyer Referral Service (LRS)** refers people to Montana lawyers who might be able to help. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at <https://courts.mt.gov/library>. Or you can contact a Reference Librarian at 1-800-710-9827 or by email at mtlawlibrary@mt.gov.

Please take a short survey about this form.

When you are done with the form, please take our online survey at this address:
http://www.surveymonkey.com/s.aspx?sm=fCBhbBj4MdOWw_2fjsCjlg_3d_3d

Thank you!

Date: _____
(the date you hand deliver or mail the letter)

From: _____
(your name)

(street address or P.O. Box)

(city, state, ZIP)

(phone - optional)

To: _____
(landlord's name)

(street address or P.O. Box)

(city, state, ZIP)

(phone - optional)

Dear: _____ ,
(Landlord's Name)

I moved out of the residence I rented from you at:

(street address of rental)

I moved out on: _____
(date you moved out)

I paid you a security deposit when I moved in. I paid you \$ _____
(amount of deposit)

(Choose the paragraph below that fits your situation.)

I moved out less than 30 days ago. (Chose one box below, then skip to address and signature)

You have returned \$ _____ to me, which is less than my full deposit.

But you did not give me a list of charges that you took from my security deposit. Section 70-25-202, MCA, says that you must give me a written list of charges that you took from my security deposit within 30 days

after my tenancy ended. Section 70-25-203, MCA, says that you cannot keep any of the security deposit for damages and cleaning charges if you do not give me a written list of deductions within 30 days after my tenancy ended.

- You have returned \$_____ to me, which is less than my full deposit.

And you gave me a list of charges that you took from my security deposit. But I disagree with these charges because:

- You have not given any part of my security deposit back to me. You have not given me a list of charges you took from my security deposit. Section 70-25-202, MCA, says that you must give me a written list of charges that you take from my security deposit within 30 days after my tenancy ended. Section 70-25-203, MCA, says that you cannot keep any of the security deposit for damages and cleaning charges if you do not give me a written list of deductions within 30 days after my tenancy ended.

OR

- It has been 30 days or more since I moved out and:

- You have returned \$ _____ to me, which is less than my full deposit. But you did give me a list of charges that you took from my security deposit within 30 days after my tenancy ended. Section 70-25-203, MCA, says you cannot keep any of the security deposit for damages and cleaning charges.

You have returned \$ _____ to me, which is less than my full deposit.

And you gave me a list of charges that you took from my security deposit. But I disagree with these charges because (list the reasons that you disagree with the charges):

You have not given any part of my security deposit back to me. You have not given me a list of charges you took from my security deposit within 30 days after my tenancy ended. Section 7025-203, MCA, says that you cannot keep any of the security deposit for damages and cleaning charges.

Please send me what you owe on my security deposit. You can mail the check to me at this address:

(name)

(street address or P.O. Box)

(city, state, ZIP)

Please respond to this letter within 14 days. If you do not respond, I may file a lawsuit against you about my security deposit.

Sincerely,

(Sign your name)