

Asking Your Landlord for Your Security Deposit Back

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 form letter that follows these instructions. The form 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.



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 letter requests that the landlord respond within 14 days, which seems reasonable. If you mail the letter, add 3 days for mailing.

If it has been less than 30 days since you moved, see the next section. You can ask the landlord to respond to your letter within 14 days, but the law allows the landlord to take up to 30 days after you move out to refund your security deposit.

What can I expect the landlord to send to me?

If less than 30 days have passed since you moved out:

- If there are no deductions, the law requires the landlord to send you your security deposit in full within 10 days after your rental agreement ended.
- If there are deductions, the law requires the landlord to send you the following two things within 30 days of the end of your rental agreement: 1) a list of deductions the landlord made from the security deposit for cleaning, damages, unpaid rent or utilities, or other lawful charges, and 2) any money left after the deductions from your security deposit.

If 30 days or more have passed since you moved out:

The law requires the landlord to give you a written list of any deductions from your security deposit, or to refund your security deposit in full, within 30 days after your tenancy ends. So, if the landlord has not given you anything within 30 days, the law says that the landlord cannot keep any 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. These lawful charges can include unpaid rent, utilities, penalties due under the rental agreement, late charges, or any other money you owe to the landlord.

The landlord did not send me what he owes. What can I do?

You can sue the landlord in court 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 you the security deposit. If you do not want the landlord to know your new physical address, you can write your Post Office Box number or the physical address of someone you trust. If you choose to write the address of someone you trust, make sure the person agrees to give you any check or letter the landlord sends to that person's address.

How do I use the form letter?

1 Complete the form letter and sign it

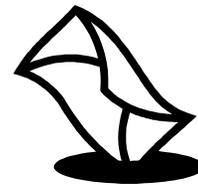
- Check the boxes that are right for your situation.
- Make sure all of the blanks on the form letter that apply to you are filled in completely.
- Sign the form letter on the blank that says “(sign your name).”

2 Make a copy

- Make one 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. If you choose this option, you must either (1) actually hand the letter to the landlord in person, or (2) leave it at the landlord's place of business, but only 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. If you choose this option, the notice period starts on the day you hand the letter to the landlord. For example, if you hand-deliver the letter on April 2 and 14 days is a reasonable amount of time to respond, the landlord does not have to respond until 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 you more for the Certificate of Mailing, but it is worth it. 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. If you choose this option, the notice period begins to run on the 3rd day after the date that you mailed the letter. For example, if you mail the letter on April 2 and 14 days is a reasonable amount of time to respond, the landlord does not have to respond until April 19 (April 2 + 3 days mailing = April 5 + 14 days notice = 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, Section 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 www.lawlibrary.mt.gov. Click on the “Laws” option near the top of the page on that website, and then click on “MCA.”

The letter to the landlord refers to specific sections of the law. It is a good idea to read those sections of the law 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.
- **The State Bar Lawyer Referral and Information Service (LRIS)** 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 www.lawlibrary.mt.gov. 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=fCBbhbbJj4MdOWw_2fjsCjlg_3d_3d

Or you can access the survey on the “Forms” page of the State Law Library website, at www.lawlibrary.mt.gov. Your answers will help make the form better.

Thank you!

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

From (write your name and the address where you want your security deposit to be sent):

_____ (name)

_____ (street address or P.O. Box)

_____ (city, state, ZIP)

_____ (phone—optional)

To (write the landlord's name and address):

_____ (name)

_____ (street address or P.O. Box)

_____ (city, state, ZIP)

_____ (phone)

Dear (write the name of the landlord): _____,

I moved out of the residence I rented from you at (write the rental's address):

_____.

I moved out on (write the date you moved): _____.

I paid you a security deposit when I moved in. I paid (write the amount you paid or, if you do not remember the amount, write "unsure"):

\$ _____.

(Choose the paragraph below that fits your situation.)

I moved out less than 30 days ago. (If you choose this option, skip the next section of checkboxes. Go below to the section with blanks for filling out your name and address.)

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 not 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 70-25-203, MCA, says that now 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 (*address where you want the security deposit to be sent*):

(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)