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Security Deposits

What law controls security deposits?

The Virginia Residential Landlord Tenant Act (VRLTA) covers the collection, use and return of security deposits. You are covered by the VRLTA if you live in an apartment building or in any type of multi-family housing. Multi-family housing means you share heating, hot water, entry and exit, or some other service with another dwelling unit in the same building. You also are covered if your landlord rents out more than ten single-family homes. In cities and in urban counties, you are covered if your landlord rents out more than four single-family homes.

If you **are** covered by the VRLTA, a court must apply these rules to you. If you are **not** covered by the VRLTA, a court may apply these rules to you.

What is a security deposit?

A security deposit is money that the landlord collects from the tenant to pay for uncollected rent and late fees, and to pay for the expense of making repairs if the tenant leaves the property without making repairs. The security deposit cannot be used for any other purpose. The security deposit may not exceed two months rent.

What happens when I move in?

Your landlord must give you a written report within five days after you move into the rental unit. The report must list all damages that exist when you move in. You must submit any changes, in writing, within five days.

As soon as you move in, you should make a list of everything wrong with the rental unit. You also may want to take photographs and date them. You should be sure your list includes any damage the landlord might later think you caused. You should give this list to the landlord within five days of moving in. Keep a copy of the list. This can avoid many problems when you move out.

Can I withhold rent if my landlord won't make repairs?

No. Even if your landlord won't make repairs, that does not allow you to stop paying rent. However, you may be able to pay rent to the court, instead of your landlord, until repairs

are made. Before you do this, you must be current in your rent and stay current, and you first must give proper written notice to your landlord.

What happens when I move out?

Right after you move out, you also should make a list of everything wrong with the rental unit. Again, you may want to take photographs and date them. You should be sure your list includes any damage that exists when you move out. Keep a copy of the list.

Right after you move out, the landlord also should do an inspection. This is to see if there are damages beyond normal wear and tear. A move-out inspection helps determine how much of the security deposit should be returned.

The landlord must tell you when the inspection will be held. The landlord must offer to let you be there during the inspection. You must notify the landlord in writing that you want to be at the inspection. The inspection must be within three days after you move out.

When will my security deposit be returned?

The landlord is required to return the security deposit and any earned interest, minus any deductions, within 45 days after you move out. You should be sure to give the landlord your new address, in writing.

The landlord may keep the security deposit to cover damage to the unit, unpaid rent, late charges, pet fees, and repair work. As long as you were not at fault or careless, the security deposit can't be used to pay for normal wear and tear on the property. The landlord must give you a list of all deductions from the security deposit within 45 days after you move out. The landlord may deduct any unpaid rent, late fees and the cost of repairs beyond normal wear and tear.

What can I do if my security deposit isn't returned?

If the landlord fails to give you a list of deductions and/or return the security deposit and interest within 45 days after you move out, you can take the landlord to General District Court to recover your deposit. If you're successful, the court can make the landlord pay your costs and attorney fees.

How do I file a lawsuit in General District Court?

Virginia has a system of General District Courts. You may file a lawsuit for money or return of your property. You can file a lawsuit for up to \$25,000. You can learn more about this by going to the web site: <http://www.courts.state.va.us/gdc/gdc.htm>. The General District Court also has a Small Claims Division, where attorneys are not allowed. You can file a lawsuit in the Small Claims Division for up to \$5,000. You can learn more about this by going to the web site: http://www.courts.state.va.us/pamphlets/small_claims.html.

You must file in one of two places. One place is the county or city where the business or person you want to sue is located. The other place is the county or city where you bought the product or service. You can file this lawsuit by yourself without an attorney. Your filing fee will be about \$56.00. If you win, the judgment will include your filing fee. If you can't afford the filing and service fees, ask the Clerk for the "Petition for Proceeding in Civil Case Without Payment of Fees or Costs." This also is called "Form CC-1414."

If your case is simple, you may not need an attorney in General District Court. If your case is complicated, or if the other side has an attorney, it will help if you have an attorney.

To file a lawsuit, you must go to the General District Court Clerk's office. Ask for the proper court form. To sue for money, fill out a "Warrant in Debt." To sue for return of property, fill out a "Warrant in Detinue." Even though these court forms are called "warrants," they are not used in criminal cases. They are used in civil (non-criminal) cases.

What do I need when I file a lawsuit in General District Court?

You must have the complete name and address of the business or person you want to sue. The address must be a physical address, not a mailing address such as a post office box. The name of the business or person must be correct. Sometimes, a business or person will not use their real name. This is an "assumed or fictitious" name. The Circuit Court Clerk has a list of these names. If you are suing a corporation, you need the name and address of its registered agent. You can get this by calling the State Corporation Commission at (804) 371-9733.

Write on the warrant your name and address, the name and address of the business or person you want to sue, the amount of your claim, and the reason for your lawsuit. After your warrant is filed, the clerk should give you two copies. Mail one copy to the business or person you're suing, at least 10 days before trial. The warrant says when and where to appear for court. The clerk gives a copy of the warrant to the Sheriff's Department to deliver (or serve) on the business or person you're suing. Your lawsuit can't be heard unless the other side is served.

How do I get witnesses to come to General District Court?

You should ask any witnesses who knows something that might help your case to come to court. If a witness will not come, ask the clerk for a subpoena to make the witness come. This costs \$12.00 and must be done at least 10 days before trial. You must have the complete name and physical address of the witness.

What happens in General District Court at trial?

If you do not come to court on your trial date, the court will dismiss your lawsuit. If you come to court and the other side does not, you should get a judgment. If both sides come to court, the judge will hear both sides and decide who wins.

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