

Landlord-Tenant Law: Ten Things You Should Know About Security Deposits

1. LL must deposit in a trust account.

2. LL must notify T of location of trust account within 30 days of beginning of lease.

3. A security deposit in a residential lease may be used only for the eight things specifically listed in the statute. Normal wear and tear is not permissible use.

4. LL may retain no more than actual damages.

5. The permissible amount of a security deposit is limited. (2 wks, 1.5 mo., 2 mos.)

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6. LL has 30 days to account and return (may delay final until 60 days w/ interim accounting by 30)

7. Reasonable nonfundable pet fee is permissible.

8. The law regulates what happens with security deposit if property is transferred.

9. LL's willful failure to comply with "deposit, bond, or notice requirements" results in forfeiture of right to retain any portion of deposit. T is entitled to recover damages for LL's violation of law, including possible treble damages for unfair trade practice and attorney fees for willful violation.

10. This law applies to property owners and to persons or businesses who manage rental property.

NOTES

NCGS Ch. 42, Art. 6: Security Deposit Act

§ 42-50. Deposits from the tenant.

Security deposits from the tenant in residential dwelling units shall be deposited in a trust account with a licensed and insured bank or savings institution located in the State of North Carolina or the landlord may, at his option, furnish a bond from an insurance company licensed to do business in North Carolina. The security deposits from the tenant may be held in a trust account outside of the State of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of said deposits. The landlord or his agent shall notify the tenant within 30 days after the beginning of the lease term of the name and address of the bank or institution where his deposit is currently located or the name of the insurance company providing the bond.

§ 42-51. Permitted uses of the deposit.

(a) Security deposits for residential dwelling units shall be permitted only for the following:

- (1) The tenant's possible nonpayment of rent and costs for water or sewer services provided pursuant to G.S. 62-110(g) and electric service pursuant to G.S. 62-110(h).
- (2) Damage to the premises, including damage to or destruction of smoke alarms or carbon monoxide alarms.
- (3) Damages as the result of the nonfulfillment of the rental period, except where the tenant terminated the rental agreement under G.S. 42-45, G.S. 42-45.1, or because the tenant was forced to leave the property because of the landlord's violation of Article 2A of Chapter 42 of the General Statutes or was constructively evicted by the landlord's violation of G.S. 42-42(a).
- (4) Any unpaid bills that become a lien against the demised property due to the tenant's occupancy.
- (5) The costs of re-renting the premises after breach by the tenant, including any reasonable fees or commissions paid by the landlord to a licensed real estate broker to re-rent the premises.
- (6) The costs of removal and storage of the tenant's property after a summary ejection proceeding.
- (7) Court costs.
- (8) Any fee permitted by G.S. 42-46.

(b) The security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-52.

§ 42-52. Landlord's obligations.

Upon termination of the tenancy, money held by the landlord as security may be applied as permitted in G.S. 42-51 or, if not so applied, shall be refunded to the tenant. In either case the landlord in writing shall itemize any damage and mail or deliver same to the tenant, together with the balance of the security deposit, no later than 30 days after termination of

the tenancy and delivery of possession of the premises to the landlord. If the extent of the landlord's claim against the security deposit cannot be determined within 30 days, the landlord shall provide the tenant with an interim accounting no later than 30 days after termination of the tenancy and delivery of possession of the premises to the landlord and shall provide a final accounting within 60 days after termination of the tenancy and delivery of possession of the premises to the landlord. If the tenant's address is unknown the landlord shall apply the deposit as permitted in G.S. 42-51 after a period of 30 days and the landlord shall hold the balance of the deposit for collection by the tenant for at least six months. The landlord may not withhold as damages part of the security deposit for conditions that are due to normal wear and tear nor may the landlord retain an amount from the security deposit which exceeds his actual damages.

§ 42-53. Pet deposits.

Notwithstanding the provisions of this section, the landlord may charge a reasonable, nonrefundable fee for pets kept by the tenant on the premises.

§ 42-54. Transfer of dwelling units.

Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent shall, within 30 days, do one of the following acts, either of which shall relieve him of further liability with respect to such payment or deposit:

- (1) Transfer the portion of such payment or deposit remaining after any lawful deductions made under this section to the landlord's successor in interest and thereafter notify the tenant by mail of such transfer and of the transferee's name and address; or
- (2) Return the portion of such payment or deposit remaining after any lawful deductions made under this section to the tenant.

§ 42-55. Remedies.

If the landlord or the landlord's successor in interest fails to account for and refund the balance of the tenant's security deposit as required by this Article, the tenant may institute a civil action to require the accounting of and the recovery of the balance of the deposit. The willful failure of a landlord to comply with the deposit, bond, or notice requirements of this Article shall void the landlord's right to retain any portion of the tenant's security deposit as otherwise permitted under G.S. 42-51. In addition to other remedies at law and equity, the tenant may recover damages resulting from noncompliance by the landlord; and upon a finding by the court that the party against whom judgment is rendered was in willful noncompliance with this Article, such willful noncompliance is against the public policy of this State and the court may award attorney's fees to be taxed as part of the costs of court.

§ 42-56. Application of Article.

The provisions of this Article shall apply to all persons, firms, or corporations engaged in the business of renting or managing residential dwelling units, excluding single rooms, on a weekly, monthly or annual basis.