



Policy and Procedure

Security Deposits

This policy provides guidance to staff at the Employment Standards and Residential Tenancies Branch and the public in understanding our internal processes. This policy is not law. To the extent that this policy conflicts with any federal or territorial legislation, the legislation prevails. This policy may be amended or revised by the Director of Employment Standards and Residential Tenancies. If you have questions about the policy, please contact the Employment Standards and Residential Tenancies branch by phone at (867) 667-5944 or email at eso@yukon.ca or rto@yukon.ca.

Purpose

To describe the responsibilities of landlords and tenants in the collection, retention and return of security deposits.

For information about how the Residential Tenancies Office (RTO) deals with concurrent claims against security deposits and other claims for financial compensation, see Policy RT-3620-011 “Security Deposits and Setoffs”.

Background

The *Residential Landlord and Tenant Act* (the “Act”) permits landlords to collect a security deposit at the beginning of a tenancy. A security deposit (often called a damage deposit) is paid by the tenant and held by the landlord as security against costs the landlord may incur related to damage, loss or money owed by the tenant.

The security deposit must not exceed the amount of one month’s rent. Landlords may collect one security deposit at the beginning of the tenancy. Landlords cannot require more than one security deposit or increase the amount of the deposit as rent increases.

Unless the tenant extinguishes their right to the security deposit, the landlord is presumed to return the deposit plus interest to the tenant at the end of the tenancy. If the landlord incurs costs caused

by the tenant, the parties can agree to have the landlord deduct those costs from the security deposit before returning the balance. Otherwise, the landlord must apply to the RTO to make a claim to keep all or part of the security deposit.

If a claim is filed, an adjudicator will consider the evidence of the alleged cost(s) or money owed and determine if the parties met their obligations under the Act to decide whether the landlord is entitled to keep any part of the security deposit.

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The adjudicator will consider whether the landlord and tenant met the following obligations under the Act before determining who is entitled to the security deposit.

1. Creating the tenancy and paying the security deposit

The landlord can require that the tenant pay a security deposit and can set a due date in the tenancy agreement. However, the landlord can only request one security deposit per tenancy agreement, and it must not exceed the amount of one month's rent.

The tenant must pay the security deposit within 30 days of when it is due under the tenancy agreement. If they fail to pay the deposit within 30 days, the landlord can serve the tenant with a 14-day notice to end tenancy for cause.

2. Condition inspections

The landlord and tenant must inspect the rental unit together when the tenant moves into the unit and again when the tenant moves out. The landlord and tenant can agree to conduct the inspections on other dates, but they must be done at the beginning and end of the tenancy. Tenants may appoint an agent to attend an inspection on their behalf if they tell the landlord in advance.

For each inspection, the landlord must in good faith offer the tenant at least two opportunities to participate. The landlord must complete a condition inspection report at each inspection. The landlord must sign and have the tenant sign the report and provide the tenant with signed copies.

The tenant (or their agent) must participate in the inspection. If the tenant does not participate despite the landlord offering them two opportunities, then the landlord must still complete the inspection and provide the tenant with a copy of the signed report.

If the landlord or tenant fail to meet any of these obligations, they extinguish their claim to the security deposit.

3. End of tenancy and the return of the security deposit

The tenant must leave the rental unit reasonably clean and undamaged apart from reasonable wear and tear. They must return keys to the landlord and provide the landlord with a forwarding address in writing.

Within 15 days of the tenancy ending or receiving a forwarding address in writing (whichever is later), the landlord must either repay the security deposit + interest to the tenant or apply for dispute resolution at the RTO. If the landlord does not repay the security deposit or apply to the RTO within 15 days, they extinguish any claim to the security deposit.

If a landlord applies for dispute resolution, an adjudicator will investigate their claim(s) of costs and assess whether they are attributed to the tenant. The adjudicator will also determine whether the parties met all their obligations described in this policy to decide who is entitled to the security deposit and whether deductions should be made.

If both the landlord and tenant have extinguished their claim to the security deposit, the adjudicator will consider who breached their obligation first and the nature of the breaches in order to determine who will bear the loss.

The adjudicator will consider all the evidence and any other information they deem relevant to make the necessary findings to reach a reasonable conclusion.

Policy history

Date	Version number	Description
June 17, 2024	1	Policy approved