**EVERYTHING YOU NEED TO KNOW ABOUT *SECURITY DEPOSITS***

Most landlords require the payment of a security deposit when you rent an apartment. The Arizona Residential Landlord/Tenant Act\* governs the payment and return of security deposits. Know your rights before you sign the lease!

**BEFORE YOU SIGN THE LEASE**

Landlords usually ask for a security deposit at the time the lease is signed. You may be asked to pay the last month's rent, as well. Regardless of what it is called in the lease or rental agreement, any sum you pay the landlord to hold as security for damages to the premises or unpaid rent is considered "security." Here are some important facts to know about these charges:

1. The total amount of such charges cannot be more than one and one-half month's rent.

*EXAMPLE:* Monthly rent is $350. The lease calls for a $175 security deposit, and last month's rent of $350. The total security charged is $525. Since this equals one and one-half month's rent, it is therefore an acceptable amount under the law.

2. Cleaning and redecorating charges are not considered part of the security deposit. However, if those charges are to be nonrefundable, that fact must be stated in writing by the landlord. If it isn't in writing, these charges cannot automatically be withheld when you move out.

*EXAMPLE:* Your lease specifies a security deposit and a cleaning deposit. However, the lease does not say that the cleaning deposit is "nonrefundable." When you move out, you clean the place thoroughly, but the landlord does not return the cleaning deposit. In order to legally withhold the cleaning deposit in this situation, the landlord must treat it as any other security deposit and give you a written, itemized statement of the amount spent for cleaning your former residence. (See the article below entitled "After You Move Out" for a complete description of the law concerning the return of security deposits.)

3. Make sure the charges you pay at the beginning of your tenancy are clearly explained in your lease or rental agreement

*EXAMPLE:* Your lease specifies a security deposit of $350, which is equal to a month's rent. When you sign the lease, the apartment manager tells you that you can use the security deposit in lieu of your last month's rent. However, the written lease says nothing about this arrangement. In this case, insist that the lease be changed to reflect this agreement. If you do not, and you later get into a dispute about this provision, the written lease provision will probably determine the outcome.

**BEFORE YOU MOVE IN**

You may legally be held responsible for any damage you do to the premises while you live there. However, you are not responsible for normal "wear and tear." To protect yourself, insist that the landlord inspect the premises before you move in. Write down any damage or problems on a sheet of paper that both you and the landlord sign, along with an acknowledgment that these damages or problems existed before you moved in and you are not responsible for them. Better yet is to photograph the apartment and any damaged areas when you move in, so you will not be held responsible.

If the premises aren't clean when you move in, and you have to clean them, ask the landlord to make an adjustment to your first month's rent, or change the lease to indicate that you do not have to clean before you move out, or to give you some other concession for having to take possession of a dirty residence. Remember, by not cleaning the premises before you moved in, the landlord has saved money or time or both.

**BEFORE YOU MOVE OUT**

Ask the landlord to inspect the premises with you after you have moved your belongings out and cleaned. During the inspection, write down all of the damages for which you will be held responsible and the additional cleaning the landlord wants you to do, if any. If you dispute any of the damage items, discuss it with the landlord at that time. Be sure to have the pre-move in checklist with you to resolve any disputes about damage that was done before you moved in. Take any pictures of damage that the landlord points out, to compare to your move-in pictures.

This pre-move out inspection gives you the opportunity to rectify some of the problems that may cause you to lose your security deposit. If you and the landlord can agree on the damage and cleaning items, sign the list and get the landlord to do the same, indicating which items you will repair or clean before turning the premises back over to the landlord.

At the time you turn the keys over to the landlord, give him or her a letter asking for the return of your security deposit within 14 days and giving an address where it can be mailed or delivered.

**AFTER YOU MOVE OUT**

Under Arizona law, your landlord has 14 days after you deliver possession of the premises and make demand to do one of two things:

1) return your security deposit in full; or

2) deliver to you an itemized written notice of the damages or unpaid rent to which the deposit has been applied, along with any remaining amount of the security deposit.

 If the landlord does not comply with these requirements, you may file a lawsuit in Small Claims Court and recover the amount of the deposit wrongfully withheld plus twice the amount wrongfully withheld.  (Please be aware, however, that if you have caused damage to the premises, or have not paid all the rent due, the landlord can still hold you responsible by filing a countersuit against you for the cost of repairs, unpaid rent and other damages.)

 If you have not received your security deposit or an itemized explanation of the items to which it has been applied, within 14 days, write the landlord a letter. In the letter explain that you are aware of your rights under Arizona's landlord tenant laws and demand the return of your security deposit (or the portion to which you are entitled) within a specified period of time. Let the landlord know that if your deposit is not returned within that time, you are prepared to file suit in Small Claims Court to enforce your rights.

**FOR OTHER LANDLORD/TENANT PROBLEMS**

Make an appointment with the Student Legal Counsel by calling 928-523-4971. Our office is in the ASNAU Office, 2nd Floor, University Union.

*\*The Arizona Residential Landlord Tenant Act is found in Arizona Revised Statutes Sections 33-1301 through 1381. The provisions regarding security deposits is Section 33-1321, which reads in full:*

* A landlord shall not demand or receive security, however denominated, including, but not limited to, prepaid rent in an amount or value in excess of one and one-half month's rent. This subsection does not prohibit a tenant from voluntarily paying more than one and one-half month's rent in advance.
* Cleaning and redecorating deposits, if nonrefundable, must be so stated in writing by the landlord.
* Upon termination of the tenancy, property or money held by the landlord as prepaid rent and security may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with Section 33-1341 all as itemized by the landlord in a written notice delivered to the tenant together with the amount due within fourteen days after termination of the tenancy and delivery of possession and demand by the tenant.
* If the landlord fails to comply with subsections B and C of this section the tenant may recover the property and money due him together with damages in an amount equal to twice the amount wrongfully withheld.
* This section does not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter.

The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section.

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