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MOVING OUT OF STATE but want your SECURITY DEPOSIT back?

EXAMPLE ONLY: This document is not offered as a legal form or instrument, and should not be used as a substitute for seeking necessary advice from attorneys or other qualified professionals.

Many tenants move out of state when they leave their rental unit. What happens if the prior landlord keeps the security deposit in the state the tenant left?

What you do before you leave, is more important than what you do afterwards.

Before you leave:

Make sure you give the appropriate written notice. It should state:

- 1) The day you will be returning the keys
- 2) The date and time of the move-out inspection
- 3) Your forwarding address (if possible use the Colorado address of a friend or family member)
- 4) Make sure to review your lease at this time to see if your notice must contain any additional information, when it is due, and reasons why the security deposit will be withheld.
- 5) Make sure you inform the post office of your forwarding address.

On the move-out inspection date:

Make sure the apartment is clean and empty. Use the move-out inspection list in Abernethy's Ultimate Tenant Handbook as a guide. Take pictures of everything open and closed, and of each full room, taken from the doorways. Return the keys to the landlord's hands. If the landlord does not show, do the inspection alone and take pictures! Mail the keys certified mail.

Before sending your demand:

Review the lease again for the date the security deposit is to be returned (30 or 60 days). You must wait the appropriate time period before sending your written

demand to the landlord. If the lease does not state a time period to return the deposit, it is usually 30 days.

If your deposit is not returned or you disagree with the statement of deductions:

You must send a written demand. If the deposit is still not returned you may need to file a suit in the small claims court against your landlord in the county in which the property is located or where the landlord resides.

Once you have left the state:

It is recommended that you give a “power of attorney” to someone residing within the state to prosecute your claims on your behalf. This can be anyone over 18 years old. You must supply this person with:

- 1) Your lease
- 2) Your demand letter
- 3) Proof of the move-in and move-out condition of the property
- 4) The landlord’s accounting
- 5) Anything else that might be in issue in the case

If they have the correct address for the landlord, they may have him served with process in person or by certified mail through the court. The landlord can refuse to retrieve the letter, but the court will consider it delivered for the purpose of granting judgment.

If the landlord provided the tenant with a detailed statement of deductions and a return of the balance within the time allowed in the lease, then the tenant will only be able to sue for the amount still due.

If the landlord did none of the above, the tenant may sue for the amount of the entire deposit, attorneys fees, and costs. If he wins the court may Triple the deposit.

Many attorneys are willing to take these cases. The upfront costs of hiring an attorney in these situations is usually a retainer fee, filing fee, and service fee. Call around and make sure you understand the costs of representation.