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Security Deposits - 2026

Under Virginia law, landlords and tenants must follow specific rules about security deposits. You are a tenant if you pay regular amounts of rent during regular time periods, such as once a month or once a week. You also are a tenant if you have lived in a hotel or motel for more than 90 days, or you are subject to a written lease for a period of more than 90 days.

What is a security deposit?

A security deposit is money that the landlord collects from the tenant to pay for unpaid rent, late fees, other charges in a written lease, and the expense of making repairs beyond reasonable wear and tear. 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.

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 should conduct an inspection. This is to determine if there are damages beyond reasonable wear and tear. A move-out inspection helps determine how much of the security deposit should be returned to the tenant. The landlord must tell you when the inspection will be held and let you be there. The inspection must be within three days after the tenant moves out.

When will my security deposit be returned?

The security deposit is not an issue until you have moved out and been gone for 45 days. The landlord is required to return the security deposit, 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 for unpaid rent, late fees, other charges in a written lease, and the expense of making repairs beyond reasonable wear and tear. 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.

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 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 courts costs.

How do I file a lawsuit in General District Court?

Virginia has a system of General District Courts. You may file a lawsuit for up to $50,000. Learn more at their web site – https://www.vacourts.gov/courts/gd/home.html. The General District Court also has a Small Claims Division, where attorneys are not usually allowed. You can file a lawsuit in the Small Claims Division for up to $5,000. Learn more at their web site – https://www.vacourts.gov/resources/small_claims_court_procedures.pdf

You must file in one of two places. One is the County or Independent City where the landlord resides or has a business. The other is the County or Independent City where you were renting. You can file this lawsuit on your own, by yourself, without an attorney. In the Small Claims Division, you fill out a Warrant in Debt - Small Claims Division (Form DC-402). In the Regular Division, you fill out a Warrant in Debt (Form DC-412).

To file and serve the papers will cost about $64. You may ask the clerk for a "Petition for Proceeding in Civil Case without Payment of Fees or Costs" (Form CC-1414) if you can't afford to pay. When you fill out the Warrant in Debt, you fill in, as the Defendant, the name and physical address of the true owner of the property you were renting.

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

If you are not completely certain about the name and physical address of the true owner of the property you were renting, you will have to do a real property search. Google "real property search" and the name of your County or Independent City. For example, "Richmond real property search." You also can call your local officials in your County or Independent City.

If the true owner was not a natural person – for example, a corporation or a limited liability company (LLC) – there is one more thing you have to do. You must get the name and

physical address of the registered agent of the company. To get this, call the Virginia State Corporation Commission at 804-371-9733 or 866-722-2551. When you fill out the Warrant in Debt, you fill in the name of the company as the Defendant, and the name and physical address of their registered agent.

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.

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.

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

You should ask any witnesses who know 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 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?

When the case is heard, you will present your evidence first. The landlord or judge may ask you questions. Then the landlord gets to present evidence and witnesses. You can question them about what they have said, but don't argue with them. If you do not come to court on your trial date, the court will dismiss your case. 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.

How do I get my money?

A judgment simply is an official statement in court records that the Defendant/Landlord owes you money. You may contact the General District Court clerk's office for information on court procedures used to collect the judgment.

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