



Tip Sheet for Tenants

RENT DEPOSITS

Prepared by the Tenant Duty Counsel Program & Funded by Legal Aid Ontario

This publication contains information intended to assist the general public. It is not legal advice about your situation. You should talk to a lawyer or legal worker for advice on your particular situation.

CAN THE LANDLORD COLLECT A RENT DEPOSIT BEFORE I MOVE IN?

Yes. The landlord can ask you to provide a rent deposit or “security deposit” up to the amount of one month’s rent. For example, if you are contracting for a month-to-month tenancy, the landlord can legally ask you for one month’s rent as a deposit.

Many tenants are familiar with landlords asking for “first and last month’s rent” when a tenant moves in. This is legal, as long as the landlord applies the first month’s rent amount to the first month that you live in the unit.

TIP FOR TENANTS: If your landlord does not collect a rent deposit from you either before or at the time you make your tenancy agreement, your landlord **cannot** demand a rent deposit from you later.

If you give a rent deposit to your landlord, the rent deposit can only be used as the rent payment for the last rental period before you move out. Rental periods are generally a month or week. Your landlord cannot use this money for any other purpose.

TIP FOR TENANTS: Some landlords ask tenants to pay anywhere between three months rent and one year’s rent before moving in. **This is illegal.** If this has happened to you, get legal advice as soon as possible.

MY LANDLORD MADE ME PAY A “DAMAGE DEPOSIT”. IS THAT LEGAL?

No. The law does not allow landlords to collect “damage deposits”. It is also illegal for landlords to collect any kind of commission or fee for renting the unit to you.

Some landlords also ask for a “key deposit” or “key money”. This is legal only if it is refundable, and if the key deposit matches or is less than the actual replacement value of the key. For example, if the landlord asks for a key deposit of \$200, this is more than likely illegal, as most keys do not cost \$200 to replace.

DOES THE LANDLORD HAVE TO PAY ME INTEREST ON MY LAST MONTH'S RENT DEPOSIT?

Yes. By law, the landlord must pay you interest on your last month's rent deposit every year. The amount of interest is determined on a yearly basis in accordance with the Consumer Price Index for Ontario. It is the same amount as the yearly rent increase (the “Guideline”). Call the Board for help if you have any questions.

If your landlord does not pay you interest on your last month rent deposit every 12 months, the law says it is legal for you to deduct the amount of the interest from your rent.

TIP FOR TENANTS: If the landlord has not paid you your interest on your rent deposit, and you want to deduct it from your rent, it is a good idea to include a note with the rent payment from which you deduct the interest, to let the landlord know why you are paying less rent this month. Please see the attached sample letter.

You should know, however, that if your landlord legally increases your rent, your landlord has the legal right to ask you to increase your rent deposit to the new legal rent. This is called a “**top-up**”. The landlord can take part of the interest owed to you and add it to your last month rent deposit so that your last month rent deposit is the same as your current rent.

WHERE CAN I GET MORE INFORMATION?

Contact your local **Community Legal Clinic** for free advice on landlord and tenant matters. To find the telephone number for your clinic call Legal Aid Ontario at (416) 979-1446 or 1-800-668-8258.

You can also call the **Tenant Hotline** at 416- 921-9494 for free information and referrals to your local legal clinic.

You can find information on line at www.acto.ca or www.cleo.on.ca.

You can call the Landlord and Tenant Board toll free at 416-645-8080 from within Toronto calling area or 1-888-332-3234 from outside Toronto. Their internet address is www.ltb.gov.on.ca

SAMPLE LETTER TO LANDLORD: INTEREST ON LAST MONTH'S RENT

If your landlord has not paid you interest on your last month's rent deposit, and you wish to deduct it from a rent payment, we suggest copying this letter and including it with your rent cheque the month that you take the deduction.

[date]

[landlord's name and address]

Dear [landlord's name]:

Re: Interest on my Last Month's Rent Deposit

It has been more than one year since I was paid interest on my rent deposit.

Under subsection 106(6) of the *Residential Tenancies Act*, you are supposed to pay me interest once a year on my rent deposit, in accordance with the Consumer Price Index for Ontario.

As you have not done so, and in accordance with subsection 106(6) of the *Residential Tenancies Act*, I will deduct the interest owing, which is \$ _____ from my rent cheque **[insert cheque number here]** for the month of **[insert month here]**.

Yours truly,

[your signature]

[your name in printing]

[your address]