



Legal Services  
of  
New Jersey

# Getting Your Security Deposit Back If You Are Displaced



Toll Free: 888-222-5765  
[www.lsnjlawhotline.org](http://www.lsnjlawhotline.org)

## RETURN OF SECURITY DEPOSIT

The landlord usually has 30 days from the date of lease termination to return your security deposit or explain why all or any portion of it was withheld. However, if you are “displaced” (forced to leave your home or apartment because of “fire, flood, condemnation or evacuation”) and the local building inspector or public official states in writing that you are unlikely to be able to get back into your apartment within seven days and tells this to the landlord, then the landlord must return your security deposit within **5 business days**. If you owed the landlord money when you were displaced, the landlord can deduct that money for things like rent or *tenant-caused* damage beyond normal wear and tear. If the landlord does not return your money on time, you can sue for double the amount owed plus interest.

If your apartment or home is repaired and you move back in, then you will have to pay the deposit back in three installments over 60 days – **the first payment is due when you return**, and the rest must be paid within 60 days.

## LANDLORD REFUSAL TO RETURN SECURITY DEPOSIT

If your landlord does not return your security deposit within the correct time, then you can file a court complaint.

1. In New Jersey, you can sue in the county where your residence was or in the county where the landlord lives. If a new landlord or owner took over while you were living in the property, the new landlord is usually responsible for returning your security deposit – even if the new landlord never received it from the first landlord.
2. There is a \$5000 limit in Small Claims court for security deposit returns – if your security deposit was higher than \$5000, then you will need to file in Special Civil Part court. If you have any other legal issues with your landlord, you should speak to an attorney before filing.

The cost for filing the complaint is usually \$22 (low income people can apply for a fee waiver). The forms for filing in Small Claims court are available at <http://www.judiciary.state.nj.us/prose/index.htm#smallclaims> CN# 10151 **“How to Sue in Small Claims Court Up to \$3,000 - Non-Motor Vehicle.”** This kit has important and helpful information on how to file your claim, how many copies you will need, and where to file the paperwork.

- When you file the complaint, only include essential facts so that the court and landlord understand that you are suing for your security deposit. **DO NOT** tell your entire story – you will tell it on the court date. If the landlord thinks you owe more money than the amount of your security deposit, your landlord may file a counter-claim against you (for example: if you didn’t pay \$3000 in back rent and your security deposit was \$1000, the landlord might file a counter-claim for \$2000 owed).
- Prepare what you will say on your court date. Bring pictures, proof of the amount you paid for the security deposit, and other evidence that will help your case.
- You may be referred to a “mediator” on your court date. A mediator will try to help you and the landlord reach a settlement. **You do not have to agree to a settlement or sign an agreement if you do not want to – you can wait and present your case in front of the judge.** If you do reach a settlement, make sure to get a copy in writing and have the landlord (or the landlord’s attorney) sign it. You should still wait in court for the judge to call your case – then you will tell the judge that you signed an agreement.

If the landlord refuses to repay the security deposit after it was ordered, you may be able to take other steps through the court – see <http://www.judiciary.state.nj.us/prose/index.htm#collect> CN#10282 **“Collecting a Money Judgment.”**

The Legal Services of New Jersey Hurricane Sandy Legal Assistance Hotline is open Monday through Friday, 8:00 a.m. to 5:30 p.m. You may also apply for Legal Services online at [www.lsnjlawhotline.org](http://www.lsnjlawhotline.org). You will receive a response within 2 business days.

