

Community
Legal Service



COVENTRY LAW CENTRE

HOUSING LAW LEAFLETS

RETURNABLE DEPOSITS

This leaflet is intended to assist tenants whose tenancy has ended but whose landlord has refused to return a deposit.

Seeking Advice & Assistance

This leaflet is intended to give general guidance only and is not to be treated as giving specific advice in respect of particular cases.

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Although every effort is made to ensure the information in this leaflet is accurate and up to date, it should not be treated as a complete and authoritative statement of the law and does not constitute legal advice - we cannot be held liable for any inaccuracies and their consequences. The information in this leaflet is written for people resident in, or affected by, the laws of England and Wales only.

RETURNABLE DEPOSITS

Is a landlord entitled to ask for a deposit?

Landlords in the private sector frequently require an incoming tenant to pay a deposit to cover the risk of any damage to the property or furniture and to cover any risk of rent arrears accruing during the tenancy. Such a deposit will not be illegal if:

- a) it is reasonable in relation to the purpose for which it is claimed and
- b) it does not exceed 1/6th of the annual rent

What to do if the deposit is not returned

If your tenancy has ended and your landlord is refusing to repay the deposit then you should clarify with your landlord why the deposit is not to be returned. If you consider that the reasons given are not reasonable then you should write to your landlord setting out in detail why you feel the money is owed to you and why you feel the deposit should be paid. You should keep a copy of the letter and you should give your landlord a reasonable period, perhaps 14 days, in which to respond. If you are intending to take Court proceedings then the letter should make this clear.

If the landlord still does not pay

It is open to you to issue a Summons in the County Court to claim the money, which is due and owing to you. Coventry County Court is located at 140 Much Park Street, Coventry. If you wish to issue a Summons, you should attend there and seek advice from the staff in the Court office. They are not able to give you legal advice but they will give you procedural advice about how to issue the Summons. There is a fee to pay when a Summons is issued although if you are on a low income or in receipt of benefits, you can apply to have the fee waived. Again, you should discuss this with the Court staff.

What will happen once a Summons is issued?

Your landlord will be given the opportunity to defend the claim. Assuming that he does then you will probably be required by the Court to complete some further forms and the case will eventually be listed for a hearing. Usually, cases involving claims of less than £5,000 are heard in the Small Claims Court and the procedure is relatively informal. You should not need a lawyer although you are free to employ one if you wish but Community Legal Services Funding will not normally be available to pay one for representing you although such funding may be available for preliminary advice.

Counterclaims

You should be aware that if you issue a Summons against an individual he/she is always free to issue a Counterclaim against you as well as filing a Defence. You should therefore, always think carefully before issuing proceedings and if you feel there is a risk of any Counterclaim being brought against you, you ought to obtain legal advice. Examples of a Counterclaim in this situation might be where the landlord claims that you have caused damage to his property or where he contends that there are rent arrears.