

Fact Sheet 8:

Security bonds

As a tenant you have rights under the *Residential Tenancies Act 1987* (the Act). This fact sheet explains the law in Western Australia about security bonds and incorporates the changes made to the Act, which came into effect on 1 July 2013.

What is a security bond?

A security bond is a deposit that you give to the lessor at the start of the tenancy. The bond money can then be used at the end of the tenancy to cover any costs for property damage, water usage or outstanding rent.

If there is no dispute about you owing any money at the end of the tenancy you are entitled to receive a refund of the full bond amount minus any costs relating to pets.

How much is the security bond?

Generally the bond cannot be more than the total 4 weeks rent. The exception to this is when the weekly rent is above \$1200 and where there is a pet bond.

What happens when you pay the bond?

When you give the bond money to the lessor you should also be asked to sign a "Lodgment of Security Bond Money" form. The lessor must give you a receipt for the money immediately upon you handing either the money or proof of payment over to them.

Where is the security bond deposited?

If your tenancy starts after 1 July 2013 the lessor must deposit the bond with the Department of Commerce's Bond Administrator within 14 days of receiving the money from you.

If your tenancy started prior to 1 July 2013 the lessor must transfer the bond to the Bond Administrator when the tenancy agreement is renewed or within 18 months of 1 July 2013.

Pet Bonds

From 1 July 2013 a pet bond (maximum of \$260) will apply to any pet capable of carrying parasites that can affect humans. If you are allowed to keep a pet that is capable of carrying fleas, ticks and other

parasites that require the property to be fumigated at the end of the tenancy. Guide dogs are exempt.

Assistance with paying the bond

The Department of Housing can provide bond loans for private rental properties if you need assistance paying the bond money.

If you are renting from the Department of Housing a portion of the bond is paid when signing the lease and the rest is paid in weekly or fortnightly installments along with your rent. For more information contact the Department of Housing.

Vacating a Property

When leaving a tenancy you should leave the property in the same condition as it was when you moved in otherwise the lessor can claim part or all of your bond money to cover the cost of cleaning or carrying out repairs.

You should take time to:

- Clean both inside and outside of the property.
- Make sure the garden is tidy.
- Cut the grass and pull up weeds.
- Check that the reticulation is working (if working at the time that you entered the tenancy).
- Wash all ground level windows.
- Wash all inside walls.
- Clean the bathroom and toilet.
- Clean the stove.
- Clean the exhaust fan grills.
- Ensure all lights are in working order.
- Ensure that the pool is clean and in working condition as per your tenancy agreement.
- Empty cupboards and clean the carpets.

Generally carpets will need to be professionally cleaned and most lessors require a copy of the receipt from a professional carpet cleaner as proof (it is generally not acceptable for the tenant to clean the carpet themselves).

Final Inspection

Within 14 days of the tenancy ending, the lessor must inspect the property and complete a Property Condition Report (PCR).

The PCR will detail the condition of the property at the time of you vacating the premises.

You should make every effort to attend the final inspection with the lessor because it will give you the opportunity to ask what the lessor intend to deduct (if anything) from your bond. If you are present it may also give you an opportunity to explain any damage and thereby prevent any future dispute about the return of the bond money. At this time you should also complete the tenant part of the PCR by indicating whether or not you agree with what the lessor has written down.

A note on PCR's: From 1 July 2013 '**property condition reports**' (PCRs) are compulsory when both entering and ending a tenancy agreement. When you leave the property at the end of the tenancy, the lessor must give you a copy of the PCR within 14 days of you leaving the premises.

Fair wear and tear

A property will often suffer from some deterioration due to '**fair wear and tear**' and you are not responsible for this. Fair wear and tear is a general term for anything that occurs through ordinary use. For example, carpet can become worn in frequently used areas; varnish wears of stair railings; net curtain naturally deteriorates in the sun and so on. Intentional damage (done on purpose) or damage caused by negligence (by you someone in your home not taking enough care) is not fair wear and tear and you will be responsible for the costs of these types of repairs.

If you think the lessor is being unreasonable by trying to hold you responsible for damage that you think is "fair wear and tear" you should firstly refer to your PCR to compare the condition of the property when you first moved in to when you vacated.

To avoid going to Court you should then attempt to negotiate a settlement by writing to the lessor explaining why you disagree with a claim. If there is still a dispute over the bond you should contact a tenant advocate service or you can lodge an application to have the matter heard in the Magistrate Court.

Return of the bond

After handing back the keys to the lessor (and providing that the original "Lodgment of Security

Bond Money" form was lodged correctly) you can then seek to get your bond back. All of the of the bond money should be returned to you unless you owe money for outstanding rent, are responsible for property damage, or have outstanding water bills or incurred other costs – such as cleaning.

If the lessor alleges that you owe money for rent etc they will notify you of this and tell you the amount of money that they want to deduct from the bond. If the claim is more than the bond you will also be advised about this.

The bond money cannot be released until all parties agree and have signed the **Form 4: Joint Application for Disposal of Security Bond** (or unless the Court orders such).

Important: Do not sign this form if you disagree with the amount of bond money being claimed or returned. Never sign a blank bond form where no money amounts are filled in.

You can refuse to sign the Bond Disposal Form and instead apply to the Magistrates Court for an order for the disposal of the bond money. You should go to the Court nearest to the tenancy that you have vacated.

You may need to apply to the Court for the disposal of the bond if after leaving the tenancy:

- You have not been able to get your bond money back; OR
- You have not been able to reach an agreement with the lessor about how much bond you should get back.

You will need to either fill out a **Form 6: Application for Disposal of Bond Money** or a **Form 12: Application for Court Order**.

List your name and address in the "Applicant" section, and the lessor's name and address in the "Respondent" section.

If your situation gets to this point then it may be in your interest to contact your local tenant advocate for assistance.

If you have any questions about the topics discussed in this fact sheet please contact your local tenancy advocate or the Department of Commerce on 1300 30 40 54 or go to www.commerce.wa.gov.au

METROPOLITAN: Fremantle Community Legal Centre (Fremantle) (08) 9432 9790 www.fremantle.wa.gov.au | Gosnells Community Legal Centre (Gosnells) (08) 9398 1455 www.gosclc.com.au | MIDLAS (Midland) (08) 9250 2123 www.midlas.org.au | Northern Suburbs Community Legal Centre Inc. Mirrabooka: (08) 9440 1663 Joondalup: (08) 9301 4413 www.nsclegal.org.au | SCALES, Rockingham: (08) 9550 0400 www.law.murdoch.edu.au/scales | Sussex Street Community Law Service Inc. (Victoria Park) (08) 6253 9500 www.sscls.asn.au | Welfare Rights & Advocacy Service (Perth) (08) 9328 1751 www.wraswa.org.au **REGIONAL:** Albany Community Legal Centre Inc. Albany: (08) 9842 8566, Free call: 1800 606 060 www.albanyclc.com.au | Agencies for South West Accommodation (ASWA) Bunbury: 08 9791 1877 www.glcl.com.au | Geraldton Resource Centre (Geraldton) 08 9938 0600 www.grc.asn.au | Goldfields Community Legal Centre Kalgoorlie: (08) 9021 1888 www.glcl.com.au | Kimberley Community Legal Services Kununurra: (08) 919 3100 Free Call: 1800 686 020 | Peel Community Legal Service Inc. (Mandurah) (08) 9140 1613 www.peelclc.com.au | Pilbara Community Legal Service Karratha: 08 9185 5899 Newman: 08 9177 8708 Roeburne: 08 9182 1169 South Hedland: (08) 9140 1613 | Wheatbelt Community Legal Centre Inc. (Northam) (08) 9622 5200 www.wheatbeltclc.com.au | State wide legal telephone advice line Metro: (08) 9221 0088 Regional: 1800 621 888

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