

ORCA TALES

October 2007 "We can tell you more about them than their mother"

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SUGGESTED APPROACHES TO SECURITY DEPOSIT DEDUCTIONS

Unfortunately, the law terms "reasonably necessary" and "ordinary wear and tear" are vague and mean different things to different people. The following suggestions are offered as practical guides for dealing with security deposit issues; while these suggestions are consistent with the law, they are not necessarily the law in this area.

A landlord may properly deduct from the departing tenant's security deposit to pay for cleaning that is necessary to satisfy the "average" or "reasonable" incoming tenant. A reasonable standard, which may not work in every case, is whether the departing tenant left the rental unit as clean as it was when he or she moved in.

A landlord cannot automatically charge each tenant for cleaning carpets, drapes, walls, or windows in order to prepare the rental unit for the next tenancy. Instead, the landlord must look at how well the departing tenant cleaned the rental unit (or a portion of it) was left in a clearly substandard condition. Reasonable cleaning costs would include the cost of such things as eliminating flea infestations left by the tenant's animals, removing mildew in bathrooms, and defrosting the refrigerator.

The landlord is allowed to deduct ONLY the reasonable cost of cleaning the rental unit from the tenant's security deposit. One practical measure of the cost of cleaning is the going hourly rate for cleaning costs in the area where the rental unit is located.

Properties in Lake Chelan!

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Ask David Horowitz...

You've advised that all three major credit bureaus should be notified of the death of a relative to protect the person's financial records and avoid identity theft. But how? I can't get a live person on the phone, and there are no instructions on the Web sites and no mailing addresses

Anonymous / Rocklin, CA

Notification is vital to prevent someone from trying to obtain credit in the name of the deceased. All three bureaus handle this through their "fraud alert" departments. Typically, it just requires a notification letter and a copy of the deceased's death certificate, but you'll need to call to ask for specific instructions.

Here's how:

***Equifax** Fraud Alert: 1-888-766-0008; General Number: 1-800-685-1111

***Experian** General Number: 1-888-397-3742

***Trans Union** Fraud Alert: 1-800-680-7289; General Number: 1-800-916-8800.

Remember to notify each credit card issuer about the death, and request that each account be closed immediately.

The "Useful Life" Rule - Carpets and Drapes

Ordinary wear and tear to carpets or drapes cannot be charged against a tenant's security deposit. Ordinary wear and tear includes simple wearing down of carpet and drapes because of normal use or aging, and includes moderate dirt or spotting. In contrast, large rips or indelible stains justify a deduction from the tenant's security deposit for repairing or replacing the carpet or drapes.

One common method of calculating the deduction for replacement prorates the total cost of replacement so that the tenant pays only for the remaining useful life of the item that the tenant has damaged or destroyed. For example, suppose a tenant has damaged beyond repair an eight-year-old carpet that had a life expectancy of ten years, and that a replacement carpet of similar quality would cost \$1,000. The landlord could properly charge only \$200 for two years' worth of life (use) that would have remained if the tenant had not damaged the carpet.

Landlord / Tenant Law: Choices for Eviction

When a landlord wants a resident to move out, certain procedures must be followed. This page provides a brief description of the various options available to landlords under Washington State law. Each option has a specific legal process, which must be followed. For a complete definition of eviction options and servicing process, review the latest version of the Residential Landlord-Tenant Act for the State of Washington—Revised Code of Washington, Title 59.

1. For Not Paying Rent. If a resident is even one day behind in rent, the landlord can issue a *three-day notice to pay rent or vacate*. If the resident pays all the rent due within three days, the landlord must accept it and cannot evict the resident. A landlord is not required to accept a partial payment.

2. For Not Complying With Terms of the Rental Agreement. If a resident is not complying with the rental agreement (e.g. keeping a cat when the agreement specifies “no pets” or unauthorized people are living in the apartment), the landlord can give a *ten-day notice to comply or vacate*. If the resident remedies the situation within that time, the landlord cannot continue with the eviction process.

3. For Creating a “West, Nuisance, or Illegal Activity.” If a resident destroys the landlord’s property, uses the premises for unlawful activity including drug-related activities, damages the value of the property or interferes with other resident’s use of the property, the landlord can issue a *three-day notice for waste, nuisance or illegal activity*. The resident must move out after receiving this type of notice. There is no option to stay and correct the problem.

4. For No Cause. Landlords can terminate the tenancy of month-to-month residents without having or stating a particular reason, as long as the termination of the tenancy is not discriminatory or retaliatory. If the landlord wants a resident to move out and does not give a reason, the resident must be given a *twenty-day notice to leave*. The resident must receive the notice at least twenty-days before the end of the rental period (usually the last day of the month). The resident can only be required to move out at the end of a rental period (the day before a rental payment is due). Usually, a twenty-day notice cannot be used if the resident has signed a lease.

5. Mutual Agreement To Dissolve The Lease This is a frequently overlooked method. Write the resident a letter discussing the problem and offering whatever supporting or circumstantial evidence seems appropriate. Recommend dissolving the terms of the lease, allowing the resident to search for other housing without going through the confrontation.

**HAPPY
HALLOWEEN
from the
OrcaPod!**



How to Serve a NOTICE

In order for a landlord to take legal action against a resident who does not move out, notice must have been given in accordance with the notice provisions of the unlawful detainer law (RCW 59.12.040 and 58.18.365).

There are three ways to serve a notice:

When only ONE (1) tenant is involved, personal service on that tenant is valid, either in the rental unit, or anywhere you come in contact with the tenant. When MORE THAN ONE (1) tenant is involved - or when you cannot obtain personal (one-on-one) service, then do either of the following:

A) Physically take a copy to the rental unit, leave it with an INDIVIDUAL OF SUITABLE AGE AND DESCRIPTION who is RESIDING in the unit, AND mail a copy by U.S. Mail, with postage affixed. By postage affixed, it has to go through the postal system and be delivered by the mail carrier. Do not place it in the tenant’s mailbox yourself.

B) It is NOT necessary to mail the copy of the notice by registered or certified mail. If you do want to mail it that way, it is recommended you still send another copy by regular mail as a tenant will frequently refuse to accept registered or certified mail, then you end up with proof that they never received the copy by mail. An alternative is to send the letter regular mail, but obtain a certificate of mailing from the post office. This provides proof that the letter was mailed, but does not require the tenant’s signature for receipt.

C) In the event that you cannot get anyone to answer the door, or if an individual answers who is NOT of “suitable age and discretion,” or does not reside there, then affix a copy of the notice in a visible place (usually on the door) and MAIL A COPY AT THE SAME TIME.

KNOCK—Always knock and attempt personal service before posting a notice on the door. There have been cases dismissed in Washington because the manager did not knock on the door before affixing a copy of the notice.

MAIL—When it is necessary to mail a copy to complete the service, put one in the U.S. Mail Box the same day if possible. It makes it easier to count the number of days as you always start your counting the day after you served or mailed the notice, whichever is the last date. So doing them both on the same day makes it easier to calculate. Also, you must mail the copy in the SAME COUNTY as the rental property is located.

ORCA ♦ WISDOM ♦

**Do for others as you would do
for yourself.**