Tenant issues and rights for Kansas renters

How much can a security deposit be?

- IF the unit does not have furniture in it, the landlord cannot ask for more than one month’s rent

  (Unit WITHOUT furniture -> maximum 1 month’s rent)

- IF it does have furniture, the landlord cannot ask for more than one and one half month’s rent

  (Unit WITH furniture -> maximum 1+1/2 month’s rent)

A landlord may also ask for a pet deposit, which cannot be more than half of 1 month’s rent.

How can you get your security deposit back?

Your landlord MUST return your security deposit, UNLESS:

- You owe back rent
- You did not leave the unit as clean as it was when you moved in
- There was damage to the unit that happened while you were renting it
  - IF the damage is normal wear and tear you would expect to see, like fading paint, then the landlord cannot deduct ANYTHING from your security deposit.
  - IF the damage is more than ordinary wear and tear, like a hole in a wall, the landlord can take out the amount it would cost to return the unit to how it was when you moved in. The rest of the security deposit not spent on cleaning or repairing the unit HAS to be returned to you.
Does the landlord have a deadline to return my security deposit?

If you have not already done so you should demand the return of your security deposit.

The landlord must return the balance of the security deposit to the tenant within 14 days after the determination of the amount of his "expenses, damages or other charges" but in no event should the landlord take any more than 30 days to get that done. K.S.A. 58-2550.

The law requires the tenant to be entirely vacated. Too many tenants leave and never make it clear to the landlord they have vacated. It is not until the landlord "knows" the tenant has vacated that the 30 days begins to run.

Here is a form that you can use to demand your security deposit back.

If this form does not get your deposit back, you may want to take your landlord to Small Claims Court.

 pena Use this guided interview to help you create a legal document that you can file in Small Claims Court for the return of your security deposit. By clicking HERE, you will be taken through a series of questions that will fill out the form you need for your situation.
What is a move-in inspection?

A move-in inspection takes place **within 5 days after your lease starts**.

This is when you and the landlord walk through the property and write down any damages that you see.

- After you and the landlord finish looking at the property:
  - Both of you will sign the list of damages or things the landlord says will be fixed. (If the walls are marked-up or dirty, write that down. If a light doesn’t work, write that down. If the landlord promises to fix something, get that promise in writing.)
  - The landlord will give you a copy of the list. Make sure you keep it.
- The reason for doing the inspection is to know the condition of the unit when you move in.
  - That way, you aren’t charged when you move out for things that were missing or damaged when you moved in. This can help you get the maximum from your security deposit.
- You may want to document the move in “issues” with pictures, but you should still make a
What if my landlord doesn’t do an inspection with me?

- IF your landlord doesn’t do an inspection with you, you can do one yourself and send a copy to the landlord. But, you should still do it within 5 days of moving in.

Why is it important that I have/keep a copy of my lease?

- A lease is an agreement to rent between a tenant (the renter) and the landlord. It sets out the terms of the contract between you and your landlord. It lets you know what to expect from the other person.
- If you have a dispute with your landlord, you should read the lease to see what terms are in there related to your issue.
- There are some things the law outlines about the arrangement between a landlord and their tenant, but bulk of the information for your situation will be found in your lease.

--> This is why it is important to keep a copy of your lease (the agreement YOU made with that landlord).

Can my landlord enter my home?

**YES, but:**

- The landlord must give you notice before entering.
- He/she can only enter during reasonable hours.

**However,** the landlord can enter *anytime* without notice *in case of an emergency.*

- IF the landlord comes in without giving you notice, make a request in writing that you be provided notice.
- IF you have pets that are sensitive to bug spray or strangers, tell the landlord that.

If you can provide an email or phone number for daytime notice, that might be to your advantage.

What if my home is destroyed by a natural disaster?

- If your home is destroyed, it means that your home is no longer in a livable condition and it is no longer safe to stay.
- If your home has been destroyed by a fire, flood, tornado, or other natural disaster, you may leave the property right away.
- However, you need to tell your landlord within 5 days after you leave that you want to end your lease.

What happens if the landlord does not fix or repair a problem?

*When a landlord fails to make necessary repairs or maintenance you can not simply withhold paying rent until the landlord makes the repairs. Your duty to pay rent and the landlord’s duty to make repairs are totally separate and if you do not pay rent the landlord...*
can evict you and not make the repairs.

There are some options that you can take after sending a written request for the repairs to the landlord:

Under Kansas law, the options are to:

1) make written requests of the landlord to make repairs, keep copies of these letters,

2) get a written agreement in advance with the landlord to have the repairs made or purchase the supplies and make the repairs yourself and deduct it from your rent payments (KSA 58-2553) or

3) file an action with the court seeking an injunction and order to make repairs. This might include authority to make your rent payment into court until the repairs are made. The Judge in this action can also decide that the rent it unfairly high, given the repairs that need to be made. This could mean that some of the rent comes back to you, after you have paid it to the Court. This action is under KSA 58-2559.

4) terminate the remainder of the lease by following the steps at KSA 58-2560. This means that you must move out of the rental unit. You wouldn't owe the money on the rest of the lease, if you follow the steps in that law.

What does a landlord have to repair?

The landlord is responsible for maintaining livable conditions, such as providing running water, heat, plumbing, electrical, etc.

- IF you are responsible for the water and it is shut off because you don't pay your bill, that is not the landlord's fault.
- IF the sewer backs up, that would be the landlord's duty to repair. However, if the problem is something you caused (flushing diapers down the toilet, for example), the landlord can require you to pay for the cost of the repairs.

In your lease it should say who is responsible for making repairs.

- It is usually the landlord, but in some leases you can be required to make repairs.
- Go back and look through your lease, or ask your landlord for a copy.

What happens if repairs are not made?

You can make a list of things that need to be repaired, and then send it to your landlord asking that he/she fix the problems by a certain date.

- **TIP:** It's always best to keep maintenance requests in writing.

IF the landlord is responsible for making repairs and he/she won't repair your home,

- You can sue for damages and back rent, so long as you continue to pay rent.
• You can give 30 day notice to move out, but the landlord has 14 days to solve the problem.

What happens if there is damage to part of the house, but it doesn’t make it unlivable?

• Landlords must repair problems that make a rental unit unfit to live in, or “uninhabitable.” While the unit is being rented, the landlord must do maintenance work and make repairs which are necessary to keep the unit livable.
• However, a landlord is not responsible for repairing damages which were caused by the tenant or the tenant’s family, guests, or pets.
• The landlord is responsible for repairing conditions that seriously affect the rental unit’s habitability.
• But whether the landlord or the tenant is responsible for making less serious repairs is usually determined by the lease agreement.

Can a landlord make me agree to live in a place that is uninhabitable?

No, a landlord cannot force you to accept unsafe or unfit housing.

Can the landlord have rules and regulations for the property?

Yes, rules and regulations are usually listed in the lease (such as no pets allowed, no noise after midnight, etc.)
• All rules must apply to all tenants
• They should benefit the tenant’s welfare or protect the landlord’s property

Do I have to follow changes in the rules after my lease starts? What type of notice should I receive?

IF the landlord makes rules about the use of rental facilities

--> The tenant must follow the rules IF:

• they are fair,
• reasonable, and
• if the tenant gets a copy of the rules at the time the tenant enters into the rental agreement.

IF the landlord makes a NEW rule or changes a current rule after the tenant begins renting,

• The landlord must give the tenant reasonable notice of the rule change.
• The landlord can place the notice in a common area or may tape it to your front door.

What if I want someone to move in with me?

You need to check with your landlord before someone else moves in with you.
IF someone moves in with you, and their name is not on the lease or the landlord does not know about it

- It might violate the original lease and the landlord might start the eviction process

**How does eviction work?**

A landlord CANNOT evict you by shutting off utilities, or by changing the locks.

- If this happens, you might be able to sue your landlord in small claims court and get up to one and one-half (1-1/2) month’s rent.

A landlord CAN evict you by giving you **3 days notice to leave the property**.

- This could be for not paying rent or staying after your lease ends.
- If you do not leave or pay the rent within 3 days, the landlord will start the eviction lawsuit.

_IF you didn't follow the lease:_

For material noncompliance with the lease agreement (violating a section of the lease agreement for having pets or other people living with you) other than not paying rent:

--> The landlord must serve you with a Kansas eviction notice of 14 days for you to comply with the part of the lease that has been violated.

- It must state that the lease will end 14 days after service unless the issue is fixed
- If you do not fix the issue, you must vacate within the following 30 days or legal action will begin.
- If you “fix” the problem, send the landlord a letter stating how you fixed the problem. (For example, if it is a pet, send a letter saying that you removed the pet from the property.)
- If you have gotten one notice to fix a problem and another lease violation occurs, you don’t get a second notice. This applies even if you fixed the first problem.

_IF the landlord starts legal action:_

If the landlord starts legal action

--> You will receive a petition that states why you are being evicted and the amount of rent you owe, if any.

- You may receive this by mail, by the Sheriff, or taped to your front door.
- The front page will be a Summons, saying when you should go to Court.
- The second page will be a Petition, saying the things the landlord believes are true and what the landlord wants in terms of money and possession of the
The Summons will have a Court hearing time and date, where you must show up to Court. This court date will happen within 14 days after you get the Petition.

- IF you do not go to court on this first date, the landlord automatically wins (called default) and gets whatever they asked for in the papers, both the money owed and possession of the property.
- IF you disagree with what the petition says (either in terms of money or possession of the property) you should go to the first court hearing. You can file an answer before the trial.
- In the answer you should state the facts of the issue and any defenses you have against the landlord’s claims.
  - Some examples:
    - The landlord accepted some rent, so you don’t owe the whole amount;
    - the unit was not livable (must have proof of this, like a housing inspection and notice to the landlord and you can’t have been living there);
    - the landlord failed to fix an unsafe or unsanitary condition despite written notice from you and a 14 day chance to fix the problem; or
    - you were evicted on the basis of religion, gender, or disability.

A date for an eviction trial will be set by the Court at the first Court hearing, usually no later than 8 days after the first court hearing.

- Both sides will present their cases
- BUT the landlord must prove that you either failed to pay the rent owed or did not fix the lease violation

IF the landlord wins, the court will issue a judgment of possession for the landlord, and you will be given a certain time to move out.

- This could be as little as 24 hours to move out

**What if I try to pay the rent within 3 days, but the landlord doesn’t take the money?**

The rent is “paid” when you put it in the mailbox, stamped and addressed to the landlord.

- You can also put it in a landlord’s dropbox.
- Don’t put it in the landlord’s mailbox, as only mail delivered by the US Post Office can go there.
  - If you do this, take a picture of the check with the date of the check showing.
- It might be a good idea to take a picture of yourself putting it in the mail box and have the camera put a date on the picture.
- You can get a money order and make sure the date is on it and keep the date receipt.
  - You still need the picture showing you mailed it to the landlord within the 3 days (24 hour periods).
What if I left personal property behind when I was evicted?

If you left personal property behind, the landlord can take your belongings, place it in a storage unit at your cost, sell it, or get rid of your property 30 days after the landlord takes possession. Within 15 days, the landlord must publish notice in the newspaper that states:

- your name,
- a description of the property, and
- the date the landlord plans to get rid of the property.

Then after it is published in the newspaper, the landlord must mail a copy of the notice to your last known address.

--> Overall you have 30 days to claim your property, but you will have to pay for any costs the landlord had to pay on your behalf.

What if I was in the process of moving out and the landlord thought I had moved out and took the property I still had in the apartment?

IF the landlord illegally takes your property while you’re living in the unit

--> You can make a written request for them to return your property or give you access to it.

- Give a deadline and keep a copy for yourself.

What is the Fair Housing Act?

The Fair Housing Act prohibits discrimination in the sale or rental of housing and other discriminatory practices.

- The landlord MAY NOT discriminate against tenants on the basis of race, gender, religion, familial status, disability, or ethnicity.
  - However, a landlord CAN consider criminal history, credit rating, and financial stability when making a decision to rent.
- This act also requires landlords to make reasonable accommodations for individuals with disabilities.
  - The Act provides that reasonable accommodations can be made in: rules, polices, practices or services, when such accommodations are necessary to afford a person equal opportunity to use the dwelling.
  - Therefore, as long as the request is not unduly burdensome, housing providers must grant a request for reasonable accommodations for those with disabilities.
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Read about **Fair Housing Rights that Protect You Under the Law**.

**How do I file a housing discrimination complaint?**

IF you have been trying to buy or rent a home or apartment AND you believe your civil rights have been violated,

- You can file your fair housing complaint online with HUD (Department of Housing and Urban Development (HUD) [here](#).
- You can also try the [Kansas Human Rights Commission](#).

**What is the legal obligation for two people on a lease?**

Leases generally don’t state the rent obligations between two individuals.

- This means that if one person fails to pay rent or moves out before the lease is up, the other person will still have to make a full payment when the rent is due.
- **TIP:** You can create a written agreement with your roommate that covers things between you.

**What if I want to sublet my unit?**

LOOK AT YOUR LEASE.

- Some leases prohibit subletting and others require you to get written consent from your landlord.

**What if I’m active duty military?**

According to the Service Members Civil Relief Act:

IF you enroll in military service or if you’re already a service member, you or your dependents have a *right to terminate a lease agreement* IF:

- you receive permanent change of station orders;
- or an order to deploy with a military unit;
- or if you’re in support of a military operation of at least 90 days.

--> If this happens, you may break your agreement no matter what it says in the lease.

Notify your landlord in writing that you need to terminate your lease, and provide a copy of your military orders.

- You can give notice by hand delivery, through a private business carrier such as UPS or
FedEx, or by certified mail.
• Once the notice is mailed or delivered to the landlord, the tenancy will terminate 30 days after the day that rent is next due.
  ○ For example, if rent is due on the first of June and you mail a notice on May 28, the tenancy will terminate on July 1, and you will no longer be responsible for rent after July 1.
• You should also provide the landlord with a forwarding address so he/she can mail you your remaining security deposit.

What do I need to do when I move out?

The terms that end a lease are something that differs from lease to lease. You should read your lease carefully.

• It might require that you give the landlord at least 30 days notice if you will not be renewing your lease.
  ○ If that is the situation, make a note on your calendar at least 45 days before the end of the lease, so you know when to give the notice and don’t forget.
• If you have a rental agreement (a written contract without a certain ending date) you may give the landlord notice at any point.
  ○ You can move out and owe no more rent on the rent due date 30 days after you mail the notice.
    ■ This notice needs to be in writing, it should state that you want your remaining security deposit back, the date you plan on moving out, and your new address so he/she can send you the remaining security deposit.
    ■ If you can’t give a new address on the date you give the move out notice, be sure to give it to the landlord when you move out.

Can I use my security deposit to pay my last month’s rent?

No, you must pay your last month’s rent.

• You can write a letter asking your landlord if you can use the security deposit as rent for the last month, BUT the landlord must agree and it should be in writing.
• IF you do not pay your last month’s rent
  ○ You forfeit your security deposit AND the landlord may start legal action in small claims court to recover the amount of rent owed.

MORE INFORMATION

ADDITIONAL RESOURCES
A guidebook to help Kansas renters

**Kansas Tenant Handbook**, published by the Kansas agency **Housing and Credit Counseling, Inc.** (HCCI), which helps people in Kansas with a variety of consumer issues.

Fair housing rights

If you feel you are a victim of discrimination by your landlord, please read here about your fair housing rights under the law.

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**VIDEOS**

Housing & Credit Counseling, Inc. (HCCI) of Kansas has a series of videos that are designed to help tenants with landlord/tenant issues.

**Evictions**

For a video that gives you more information on evictions and the eviction process click here

**Leasing Agreements**

*This video* informs you about the differences between leases, sub-leasing, if you can break your lease, what kind of term your lease is, terminating your lease, and what information you need to know about your lease.

**Notice**

*This video* informs you how to give notice to your landlord, how many days you have to give notice, and what kind of notice the landlord must give you.

**Security Deposit**

*This video* informs you about the amounts of security deposits, how to get your deposit back, how long the landlord has to return your deposit, and the list of damages the landlord must give you if the landlord withholds some of the deposit.

**Move-In & Move-Out Inspections**

*This video* informs you about what the landlord and tenant must do upon move-in, what to look for when moving in/out, and the small claims court process.

**Tenant Rights**
This video informs you about maintenance requests and what the landlord is responsible for repairing.

FORM Demand for Return of Security Deposit (1).pdf

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