

Factsheet No.1

Getting Your Bond Back



I. Tenants

Landlord must lodge your bond

If you are a 'tenant', your landlord/head tenant must deposit your bond with NSW Fair Trading. Once deposited, Fair Trading will send you a deposit notice and a rental bond number.

If the landlord/head tenant does not deposit the bond within the required period, they can be fined up to \$2,200.

You can lodge an application in the NSW Civil and Administrative Tribunal (NCAT) for orders to get the landlord/head tenant to lodge the bond with NSW Fair Trading.

Getting your bond back

If the bond was deposited with Fair Trading

If you and the landlord/head tenant agree about the amount to be returned, both of you sign the 'Claim for Refund of Bond Money' form and lodge it with Fair Trading. You should receive the money within 2 days.

If you and the landlord/head tenant disagree about the amount to be returned, fill in the form with the amount that you want paid and lodge it without the landlord's signature.

If the landlord does not dispute it, Fair Trading will pay your claim after 14 days. However, the landlord/head tenant will still have a further 6 months to lodge any claim of compensation with NCAT.

If the landlord disputes it, they must apply to NCAT within 14 days to stop the payment of the bond to you. NCAT will then decide how the bond will be paid.

If NSW Fair Trading have already paid your bond to your landlord, you can still lodge an application to NCAT for it to be paid back to you within 6 months of it being paid to your landlord.

If the bond was NOT deposited with Fair Trading

If your landlord/head tenant won't return all or some of your bond, you can make an application to NCAT. You should make the application within 28 days of moving out.

Remember, they can be fined up to \$2,200 if they haven't lodged the bond. You can make a complaint to your local Fair Trading Centre. If you attach a copy of your tenancy agreement and proof of payment of the bond, they may be able to prosecute the landlord.

If the bond is in a housemate or head tenant's name

Request your share - they must pay it to you within 14 days of written request.

If they don't, you can apply to NCAT. You should make the application within 28 days of moving out. List the housemate or head tenant as the landlord on the application form.



2. Boarding house residents

If you are a boarding house resident, the *Boarding Houses Act 2012* (NSW) may apply to you.

After you move out, your landlord must pay your bond (or security deposit) back to you within 14 days. If there is a disagreement, you can apply to NCAT. You should make the application within 28 days of moving out.

3. Lodgers

If you are a lodger, the *Residential Tenancies Act 2010* (NSW) and the *Boarding Houses Act 2012* (NSW) don't apply to you. You cannot go to NCAT to resolve bond disputes.

If your landlord won't return all or some of your bond, you could go to the Local Court to recover it. The time limit is 6 years. You should file a statement of claim seeking repayment of the bond.

If there is some doubt about whether you are a lodger or not, you could file a claim in NCAT (you should do so within 28 days of moving out) and try to resolve the

dispute through the conciliation process. If it doesn't resolve, NCAT may ultimately decide it does not have the power to hear your claim because you are a lodger, in which case you could then proceed in the Local Court.

4. Tenant, boarder or lodger?

You are probably a tenant if:

1. You pay rent; and
2. It's not student, holiday or visitor accommodation; and

Either:

- You rent the whole place; or
- You rent the whole place with other people and your name is on the tenancy agreement with the landlord; or
- You share the place, there are less than 5 beds (not counting beds of the owner/head tenant/caretaker/manager and their relatives) and you don't live with your landlord or a caretaker; or
- You share the place, there are less than 5 beds (not counting beds of the owner/head tenant/caretaker/manager and their relatives) and you live with your landlord or a caretaker but they don't have control over the house; or
- You share the place, there are less than 5 beds (not counting beds of the owner/head tenant/caretaker/manager and their relatives), you live with your head tenant but they don't have control over the house and you



have a written agreement with your head tenant.

You are probably a boarding house resident if:

1. You pay rent; and
2. It's not student, holiday or visitor accommodation; and
3. There is a care taker or proprietor who can access any of the rooms at any time, they don't need to live on site; and
4. You share the place and there are 5 or more beds (not counting beds of the owner/head tenant/caretaker/manager and their relatives).

You are probably a lodger if:

1. You pay rent; and
2. It's not student, holiday or visitor accommodation; and
3. Either:
 - You share the place, there are less than 5 beds (not counting beds of the owner/head tenant/caretaker/manager and their relatives), you live with your landlord or a caretaker and they have control over the house; or;
 - You share the place, there are less than 5 beds (not counting beds of

The owner/head tenant/ caretaker/manager and their relatives), you live with your head tenant (control is irrelevant) and you don't have a written agreement with your head tenant or the head tenant doesn't have one with the landlord.

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This factsheet is no substitute for legal advice. If you have a problem please seek legal advice from your local community legal centre