

Taking a bond

Information for landlords

A rental bond is money you can request the tenant to pay as a form of security in case they breach the tenancy agreement. A bond should not be treated as a substitute for careful selection of prospective tenants. All bonds must be lodged with Fair Trading and you can make a claim against the bond for certain reasons after the tenancy ends.

Most tenants do the right thing and get their bond back at the end of the tenancy. However, some times a bond is not enough to cover the damage and rent owed by a tenant. If you are concerned about this risk you could consider taking out landlord insurance.

Amount of rental bond

Rental bonds are not compulsory, but it is highly recommended that a bond be taken unless there is a good reason not to.

No more than 4 weeks' rent can be charged as a rental bond. This applies to all rental properties in NSW, whether furnished or unfurnished. Higher bonds cannot be charged for tenants with pets, children or for any other reason.

A rental bond must be in money, and cannot be in any other form, such as personal goods or a written guarantee from the tenant's friends or relatives. The only exception is for Tenancy Guarantees issued by Housing NSW. These guarantees (of up to \$1000 over and above any bond paid) help those with a limited or poor rental history to rent a place in the private rental market.

A rental bond can only be required when the tenant signs the tenancy agreement. You cannot require the tenant to pay the bond in advance, for instance from applicants for the tenancy or from those who have paid a holding fee. This does not prevent the tenant from transferring the bond into a bank account ahead of signing the agreement if they choose to do so. You can only take one bond for a tenancy. That is, if there is more than one

tenant, you cannot take a separate bond from each of them.

Rent in advance

At the beginning of the tenancy, the tenant can be required to pay the first 2 weeks' rent. This is not another form of bond. The tenant is simply paying their rent in advance, meaning that no rent is due until 2 weeks have passed. Besides a rental bond and 2 weeks' rent in advance, you cannot ask the tenant for any other money at the start of a tenancy.

Bond lodgement

When you take a bond from a tenant you must give a receipt or record the payment details on the tenancy agreement. The bond must be lodged with NSW Fair Trading. You cannot keep the money yourself or put it into an account in the tenant's name.

You need to fill out and get the tenant to sign a Rental Bond Lodgement form. These forms are available from any Fair Trading Centre or by calling 13 32 20. Lodgement forms cannot be downloaded from this website as each form has a unique barcode.

Bonds can be lodged by posting the Lodgement Form along with a cheque/money order for the amount of the bond to the address on the form or in person at any Fair Trading Centre.

If you are letting and managing the property yourself you have 10 working days in which to lodge the bond with Fair Trading. You will receive confirmation (with the bond number) from Fair Trading once the bond is processed.

If you have employed an agent they will lodge the bond and handle the paperwork. Agents have 10 working days from the end of each month in which to lodge all bonds received during that month. These are maximum timeframes and you can lodge a bond sooner.

It is advisable to only accept bond payments in the form of cash, bank cheque or bank transfer from the tenant's account.

Fair Trading does not accept liability for a tenant's dishonoured personal bond cheque. If the cheque bounces this means you have no bond or security. You will need to try to collect the money again and re-lodge the bond or issue a termination notice for breach of the tenancy agreement.

Bond instalments

Most landlords request the tenant to pay the bond in one lump sum before handing over the keys to the property. However, landlords may sometimes allow a tenant to pay the bond in instalments.

In these situations you can keep the part payments until the whole bond is paid then lodge the bond with NSW Fair Trading in one amount. However, if this takes more than 3 months, you will need to lodge what you have received in 3 monthly cycles.

Bond top-ups

You cannot request or receive additional bond payments (also known as 'top-ups') during the course of a tenancy. The maximum amount of bond that can be charged is the amount equivalent to the first 4 weeks' rent at the start of the tenancy.

Penalties apply

Fair Trading can take you to court or issue fines if you do not follow the bond rules. This includes taking more than 4 weeks' rent as a bond or not lodging a bond on time.

Updating bond records

If the name or contact details of the landlord, agent or co-tenants changes during the tenancy, a Change of Shared Tenancy Arrangement or Change of Managing Agent/Owner form will need to be completed and lodged with NSW Fair Trading.

www.fairtrading.nsw.gov.au
Fair Trading enquiries 13 32 20
TTY 1300 723 404
Language assistance 13 14 50

This fact sheet must not be relied on as legal advice. For more information about this topic, refer to the appropriate legislation.

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