

Bond

If bond is charged it must be lodged...

..... and bond cannot be more than the equivalent of 4 weeks' rent!

THE BOND IS YOUR MONEY!

Don't just give it away!

Bond lodgement and refund processes are regulated by the [Residential Tenancies Act 1997](#) (RTA). The terms of your tenancy are set out in the RTA and [Standard Lease](#) and are known as the 'standard tenancy terms' (STT).

What is a bond?

A bond is a landlord's security in case a tenant leaves owing rent or does damage to the property that has to be repaired. A landlord does not have to ask for a bond. However, if they do, the bond cannot be more than 4 weeks' rent (s 20 RTA).

AT THE START OF A TENANCY

How is bond lodged?

If your landlord or their agent requires a bond, you can pay it directly to them (cl 20(a) STT). A receipt must be provided.

If you pay your bond directly to a landlord, they have 2 weeks to lodge the money with the Office of Rental Bonds (ORB) (cl 20(c) STT). If you pay it to a real estate agent they have 4 weeks to lodge it. You can lodge the money yourself, although the landlord/agent can refuse you possession of the premises until you produce evidence that you have lodged the it with the ORB (s 24 RTA and cl 19 STT).

The bond should be lodged in the names of all tenants who paid a proportion of it. The ORB will provide a receipt. If you don't receive a receipt within a few weeks contact ORB to check that it was lodged.

If the landlord/agent hasn't lodged the bond you can apply to the [ACT Civil and Administrative Tribunal](#) (ACAT) for an order requiring them to lodge it. The landlord can also face a maximum penalty of \$2000 for failure to lodge it (RTA s 23(3)).

Condition reports ('inventories')

No later than the day after you move in, **the landlord/agent must provide you with 2 signed copies of a condition report** (or "inventory") stating their assessment of the condition of the property, and any goods leased with it (s29 RTA).

You have 2 weeks to return 1 copy to them.

Take the time provided because it gives you an opportunity to live in the property and identify problems that are not immediately visible. If you agree with the report, simply sign it and return the copy to the landlord/agent. **If you don't agree with part or all of the statements, add your own comments, sign it, make a copy, and give them a copy.**

It is very important that you keep a copy of the report with your comments. Keep it with your

lease and other documents.

Remember, the condition report is viewed as evidence of the condition of the property at the beginning of the tenancy (s 30 RTA). The landlord, or their agent, may use the lack of detail to claim for damage done before you moved in. **It is very important to complete the condition report in as much detail as possible. It is also advisable to take photos or video the premises at the same time.**

If you don't receive a condition report you should document this, advise the landlord/agent in writing that it hasn't been received. You should also download or do your own [Condition Report](#). If, at the end of the tenancy, no condition report is produced by the landlord/agent, then what you say should be accepted by the ACAT as evidence of the condition of the premises at the start of your tenancy.

Changes in shared tenancies.

If there are changes to shared tenancy arrangements during your stay in a property, and the changes affect tenants who were listed at the ORB, you must fill out a [Transfer of Tenants](#) form and advise the ORB of the changes. This is very important because the ORB will only release bond to those tenants listed with them.

AT THE END OF YOUR TENANCY

It is essential that you end your tenancy and finalise your responsibilities for the house with a final inspection.

As a tenant you are expected to return the property in ***substantially the same condition and level of cleanliness it was in at the beginning of the tenancy*** (as noted in the condition report), **allowing for fair wear and tear (cl 64). You cannot be made to improve the property (cl 65 STT).**

Do I have to have my place professionally cleaned?

No. The methods you use to achieve this are entirely a matter for your discretion. NOWHERE in the RTA or the STT is it stated that you have to use professional cleaning or carpet cleaning services at the end of your tenancy.

But the Tribunal accepts that **carpets** have to be professionally cleaned at the end of your tenancy **if** your tenancy agreement says that they do **AND** if they were professionally cleaned at the beginning of the tenancy. In these cases the agent/landlord must provide a receipt showing that this was done.

The Final Inspection

The final inspection takes place in the last month of your tenancy at a time agreed between you and your landlord/agent. **It is important that you attend this inspection.**

Return **all keys** at the inspection and ask for a receipt. You may be held liable for rent and any damage while you retain access to the premises. If your landlord/agent refuses to accept the keys, the safest method for returning them is by registered mail. Include a note stating the address of the rental premises you are leaving and the date you were last on the premise, as the tenancy ends on the date you vacate (cl 97(2) STT). Add that they refused to accept the keys.

Ask for a copy of the report at the end of the inspection.

A landlord/agent cannot add items that need repairing, restoring or cleaning after the final inspection has been conducted and you have vacated the premises and have no

control over what is happening there. Despite what some agents claim, a landlord cannot do an inspection after you have vacated, if they want to do an inspection it has to be with you at the final inspection. Read our Frequently Asked Question: [Additional Final Inspections](#).

When you move out make sure the landlord /agent has your forwarding address and contact the ORB to confirm they also have your forwarding details.

What can the landlord claim?

The RTA clearly states the only grounds for claiming amounts from your bond (s31 RTA). The most common are:

- The cost of repairing damage other than fair wear and tear that was caused by you;
- Rent owing under the lease at the time it terminates (This doesn't include compensation for rent if you leave the fixed term lease early);

Remember that the bond money is your money. The landlord or agent must be able to support any claim they make on your bond money with evidence.

What is 'fair wear and tear'?

'Fair wear and tear' is a very old phrase that has been used in tenancy agreements for centuries. There are two parts to its meaning:

- 'Fair' relates to the *cause* of the damage. It says that for damage to be excused, it must have occurred in the course of *fair use* of the property for residential purposes. Something like carpet deterioration in high traffic areas of the premises (e.g. hallways) could definitely occur in the course of fair use and be excused. On the other hand, it would be hard to argue that motor oil stains on a lounge room carpet occurred during fair use. This type of damage would almost certainly be considered to fall outside fair wear and tear.
- 'Wear and tear' refers to the *effect* of the damage, and limits the severity of allowable damage. Minor scuff marks on walls, sun-fading of curtains and minor oil stains on a concrete driveway would all likely constitute fair wear and tear. On the other hand, a large red wine or cordial stain on the carpet would probably be considered to be more than merely wear and tear, even though such a stain clearly could have happened in the course of fair use.

What is 'fair wear and tear' depends on the facts of each case. If you and the landlord can't agree, it will be decided in the ACAT. The Member will consider the condition of the property at the start and the end of the tenancy, as well as the general age and condition of the property.

Evidence of the condition of the premises

The best evidence that you can have is visual evidence, **video and/or photographic**. Take the time to record all rooms inside the premises, and (if applicable) the outside too. If any areas are raised as an issue at the final inspection (eg an area of carpet, or a crack in the shower

screen) then take additional close up photos of these areas. So, take your camera and download a blank [Condition Report](#) to take to the final inspection in case there are disputes.

You could also arrange for a reputable third party—eg, a work colleague, friend, or neighbour— to go through on the day of the final inspection and make a written statement about the state of cleanliness and general condition of the premises on the date you vacate. This extra effort could make all the difference when it comes to getting your bond money back!

Claiming the refund of your bond

You and the landlord/agent can both sign the 'Refund of Bond' form. **You** should then take the signed form to the ORB and receive a cheque for the agreed amount immediately. It can be lodged by post or fax. The claim will be processed within 3-4 working days, and a refund cheque sent by post or by electronic funds transfer straight into your bank account.

NEVER SIGN A BLANK BOND FORM!!

Even if you have a verbal agreement with the landlord/agent, insist on the amounts and details being included on the form before you sign it.

If there is a dispute you can always lodge a [Refund of Bond form](#) without your landlord/agent signing off on it.

If you don't agree that you are liable for alleged damage, you can still claim the amount you think is relevant, sign the claim form and lodge it with the ORB without the landlord's signature.

The ORB notifies the landlord/agent that they have received a claim for the bond. The landlord/agent has 10 working days to dispute this claim. If they don't dispute your claim within that time your bond will be released to you.

If they dispute your claim, the disputed amount is withheld by the ORB, and any undisputed amount returned to you. The matter will then be listed for a conference at the ACAT. At the conference a facilitator will try to assist both parties to reach a negotiated outcome, but only orders that both parties agree to can be made at the conference. If an agreement can not be reached at conference then the matter will proceed to an ACAT hearing where binding orders will be made by a Tribunal Member.

It is worthwhile to write to the landlord/agent when you lodge your claim, advising them of your actions and stating why you are not legally liable for the damages they are claiming (sign, date and keep a copy of the letter). This may be enough to deter them from disputing your claim.

Bond forms are available from the Office of Regulatory Services website noted below.

This is a summary of your rights and responsibilities. If you have a specific problem, you should seek detailed advice.

Tenants' Advice Service 6247 2011 free legal advice for all ACT renters (tenants and occupants)

Tenants' Union (ACT)6247 1026 — publications, information, workshops, law reform and news on tenancy/renting issues
www.tenantsact.org.au
Office of Regulatory Services (Bonds)6207 1178 — bond lodgement, return and inquiries
www.ors.act.gov.au