



TENANT RESOURCE CENTER

ATCP 134 Changes - 11/1/15 CR 14-038

Substantive Changes:

1. **Last Known Address.** Landlords are no longer required to mail the security deposit to the tenant's last known address if the tenant does not leave a forwarding address. Landlords still have to “deliver or mail” the security deposit, but there is no requirement in the regulations about where to send it. [ATCP 134.06\(2\)](#), [CR 14-038, Sec. 4](#)
2. **Names on Checks.** Landlords are no longer required to make a security deposit check, draft or money order payable to all parties on the lease if the tenants haven’t designated a payee in writing in advance of the security deposit being returned. There is no legislative requirement about to whom the security deposit should be returned. [ATCP 134.06\(2\)](#) , [CR 14-038, Sec. 4](#)
3. **Partial Payment.** A tenant’s right to pursue the wrongfully withheld portion of a security deposit is no longer protected if they cash a partial return of a security deposit check. Cashing a partial payment of a security deposit return may mean that tenant waives their right to the full amount. [ATCP 134.06\(2\)](#), [CR 14-038, Sec. 4](#)

Clarifications:

4. **Carpet Cleaning Rules.** Clarification on carpet cleaning rules have been written into the notes of ATCP 134, to explain the July 2013 brief from Wisconsin Attorney General, and to address previous confusion about charges for routine carpet cleaning. [OAG-04-13](#), [ATCP 134.06\(3\)\(c\)](#), [CR 14-038, Sec. 9 & 10](#)
 - a. **Tenant Payment Provisions.** The note in [ATCP 134.06\(3\)\(c\)](#) makes it explicit that a landlord is allowed to include a rental provision (a clause in the lease) which requires the tenant to pay for routine carpet cleaning.
 - b. **Security Deposit.** Carpet cleaning payments made at the beginning of the lease are to be treated as if they are part of a security deposit. All payments collected in advance from the tenant, which is in excess of one month’s rent, must be considered a “security deposit;” this includes money that the landlord asks the tenant to pay for carpet cleaning.
 - c. **Carpet Cleaning and “Normal Wear and Tear.”** Landlords may not deduct from the security deposit for “normal wear and tear,” including deductions for routine carpet cleaning where that charge would be “normal wear and tear.” Landlords can deduct from the security deposit when it is reasonably necessary due to tenant “damage, waste or neglect.”

Drafting Error:

5. **"Pierce v. Norwick" is incorrectly numbered.** In the second note attached to rule [ATCP 134.06\(2\)](#) the case is cited as "202 Wis. 2d 588 (1996)" but it is actually "202 Wis. 2d 587 (1996)." [CR 14-038, Sec. 4](#)

Consistency with Other Laws and Regulations:

6. **Definition of “Dwelling Unit.”** The wording of the rule is changed to make the definitions of “manufactured home” consistent with ATCP 125. [ATCP 134.02\(2\)](#), [ATCP 125.01\(1s\)&\(7\)](#) , [CR 14-038, Sec. 1](#)
7. **Definition of “Premises.”** New language defines premises as all of the property listed in the lease plus any furnished personal property. This makes ATCP language the same as [Wis. Stat. 704.01\(3\)](#). [ATCP 134.02\(9\)](#) , [CR 14-038, Sec. 2](#)
8. **Definition of "Rental Agreement."** New language makes it clear that a rental agreement is between a landlord and tenant and makes the language consistent with [Wis. Stat. 704.01\(3m\)](#). [ATCP 134.02\(10\)](#), [CR 14-038, Sec. 2](#)

- 9. Repair Disclosure Rules.** Previously landlords were required to disclose “all uncorrected building and housing code violations of which the landlord has received notice from code enforcement authorities, and which affect the individual dwelling unit and common areas of the premises.” The new rule only requires disclosure of violations to which ALL of the following apply:
- the landlord knows of the violation;
 - the violation affects the areas covered in the lease or common areas;
 - the violation presents "a significant threat to the prospective tenant's health or safety"; and
 - the violation has not been corrected.
- This new rule means that a code violation which is not considered a “significant threat” to the health of the tenant (most building code violations are) does not need to be disclosed, even if the three other criteria are met. This brings ATCP code in line with [Wis. Stat. 704.07\(2\)\(bm\)](#). [ATCP 134.04\(2\)\(a\)](#), [CR 14-038, Sec. 3](#)
- 10. Security Deposit Return Timing.** This makes the language consistent with [Wis. Stat. 704.28\(2\)](#). [CR 14-038, Sec. 4](#). The landlord no longer returns the security deposit based on when the premises is "surrendered." Now, the landlord has to return the security deposit 21 days after any of the following:
- the date the lease ends, if the tenant leaves at the end of the lease [ATCP 134.06\(2\)\(a\)](#); or
 - the date the lease ends or the date a new tenant’s lease begins, if the tenant is evicted or leaves before the lease ends [ATCP 134.06\(2\)\(b\)](#); or
 - the date the premises is known to be vacated or the date that the tenant is removed due to an eviction if the tenant is evicted due to holding over. [ATCP 134.06\(2\)\(c\)](#)
- 11. Security Deposit Withholding Clarifications.** ATCP 134.06 was changed to clarify and to make it consistent with current practice.
- Introduction.** Language is changed in the introduction to ATCP 134.06(3)(a) to clarify that deductions are made from a full amount of the security deposit, and only for the amount that is reasonably necessary to pay for allowable withholdings. [ATCP 134.06\(3\)\(a\)](#) , [CR 14-038, Sec. 6](#)
 - Mobile Home Fee Deduction.** “Mobile home parking fees” are no longer one of the standard legally allowable security deposit deductions. The language in the code has been changed to be consistent with [Wis. Stat. 704.28](#), and now landlords are not allowed to deduct for "mobile home parking fees," but rather they may deduct for "monthly municipal permit fees." [ATCP 134.06\(3\)\(a\)5](#), [CR 14-038, Sec. 6](#)
 - Nonstandard Rental Provision Deductions.** Landlords are no longer required to "discuss," but must “identify” any Nonstandard Rental Provisions which allow deductions from the security deposit for withholdings not included in [ATCP 134.06\(3\)\(a\)](#). This makes the language consistent with [Wis. Stat. 704.28\(2\)](#). [CR 14-038, Sec. 7 & 8](#)
- 12. Clauses Rendering a Rental Agreement Void and Unenforceable.** ATCP 134.08 previously contained a list of “prohibited provisions”, and has been changed to contain a list from Wis. Stat. 704.44 of provisions which make a rental agreement “void and unenforceable.” Clauses 2-8 of ATCP 134.08 are similar to clauses 1-7 in the old version of the rule, but now make a rental agreement “void and unenforceable” to be consistent with [Wis. Stat. 704.44](#). They also added to the list [ATCP 134.08\(1\)](#) (lease provisions which allow retaliatory acts due to calls for law enforcement, health or safety services), [ATCP 134.08\(9\)](#) (lease provisions which allow a landlord to evict a victim of a crime, because of that crime), and [ATCP 134.08\(10\)](#) (leases which have rules against crime must have a notice of domestic violence protections). [CR 14-038, Sec.11](#)
- 13. Lien Agreements.** All references to a “lien agreement” are removed and replaced with either “express agreement” or simply “agreement.” The requirement that the agreement be in a Nonstandard Rental Provision remains. [ATCP 134.09\(4\)\(b\)](#) , [CR 14-038, Sec.12 & 13](#)

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