

RESIDENTIAL LANDLORDS - BEWARE

Are you a residential investment property owner or a landlord? Are you familiar with ATCP 134? If not, you definitely need to be. ATCP 134 is a chapter of the Wisconsin Administrative Code that applies to residential rental practices. While these rules were updated in 1998 many well-intentioned landlords are still unfamiliar with their provisions and the rather extreme consequences that may result if you fail to abide by them.

The most overlooked — and the most litigated — rule is ATCP 134.06 (2) which pertains to the return of a tenant's security deposit. This rule states that a landlord **shall** return a tenant's security deposit to the tenant within 21 days after the tenant surrenders the premises to the landlord. This applies whenever the tenant leaves your unit whether that be at the end of the rental period or as the result of being evicted.

If the tenant has damaged the unit or owes you back rent such amounts can be deducted from the tenant's security deposit however the 21-day letter must still be sent to the tenant showing the itemized deductions that were taken from their security deposit. This "21-day letter" must be sent to the tenant's forwarding address or if that was not provided to you then to the tenant's last known address.

The consequences to the landlord who fails to follow the above rules are severe. Together, ATCP 134 and the Wisconsin Statutes, allow a tenant to sue a landlord who fails to return their security deposit or mail the 21-day letter to the tenant within the 21 day time period, for **double the amount of the security deposit**, together with the **costs of the lawsuit** and the **tenant's reasonable attorney's fees**. Yes, that is correct, that same tenant that you were forced to evict for failing to pay their rent or for disturbing their neighbors by playing their music too loud, can now come back and sue you the landlord. Adding insult to injury, besides receiving a damages judgment against the landlord, you will also be stuck having to pay the fees of the lawyer who was hired by your ex-tenant to sue you.

If you are a landlord and are unaware of the above residential practice rule or are unfamiliar with ATCP 134 I urge you to become knowledgeable before you become a victim of a savvy tenant. For additional information pertaining to landlord-tenant law and related issues please contact Attorney Tristan R. Pettit of Petrie & Stocking S.C. at (414) 276-2850.

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