

**Cherokee Nation Code Annotated**  
**Title 41: Landlord and Tenant**  
**Chapter 2: Residential Landlord and Tenant Act**  
**§ 115. Damage or security deposits**  
Cite as: 41 CNCA § 115

A. Any damage or security deposit required by a landlord of a tenant must be kept in an escrow account for the tenant. Misappropriation of the security deposit shall be a crime and punishable by a term in the Cherokee Nation Tribal detention facility not to exceed six (6) months and by a fine in an amount not to exceed twice the amount misappropriated from the escrow account.

B. Upon termination of the tenancy, any security deposit held by the landlord may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with this act and the rental agreement, all as itemized by the landlord in a written statement to be delivered by mail with a return receipt requested and to be signed for by any person of statutory service age at such address or in person to the tenant if he can reasonably be found. If the landlord proposes to retain any portion of the security deposit for rent, damages or other legally allowable charges under the provisions of this act or the rental agreement, the landlord shall return the balance of the security deposit without interest to the tenant within thirty (30) days after the termination of tenancy, delivery of possession and written demand by the tenant. If the tenant does not make such written demand of such deposit within six (6) months after termination of the tenancy, the deposit reverts to the landlord in consideration of the costs and burden of maintaining the escrow account, and the interest of the tenant in that deposit terminates at that time.

C. Upon cessation of a landlord's interest in the dwelling unit including, but not limited to, termination of interest by sale, assignment, death, bankruptcy, appointment of receiver or otherwise, the person in possession of the tenants' damage or security deposits at his option or pursuant to court order shall, within a reasonable time:

1. transfer said deposits to the landlord's successor in interest and notify the tenants in writing of such transfer and of the transferee's name and address; or
2. return the deposits to the tenants.

D. Upon receipt of the transferred deposits under paragraph 1 of subsection (C) of this section, the transferee, in relation to such deposits, shall have all the rights and obligations of a landlord holding such deposits under this act.

E. If a landlord or manager fails to comply with this section or fails to return any prepaid rent required to be paid to a tenant under this act, the tenant may recover the damage and security deposit and prepaid rent, if any.

F. Except as otherwise provided by the rental agreement, a tenant shall not apply or deduct any portion of the security deposit from the last month's rent or use or apply such tenant's security deposit at any time in lieu of payment of rent.

G. This section does not preclude the landlord or tenant from recovering other damages to which he may be entitled under this act.

H. Tenants under an MHO agreement may bring an action for settlement or accounting of the disputed accounts and contributions only after the tenants have exhausted their administrative remedies provided by the Indian Housing Authority.

#### Historical Data

LA 17-91, eff. December 14, 1991.