



# Kenosha Landlord Association

A Local Chapter of the Wisconsin Apartment Association

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## To Our Members

A big thank you to our featured presenter at last month's meeting, Dee Dee Kruse, Leasing Agent/Manager at Cranberry Apartments. Dee Dee introduced us all to RentPrep.com; an online tenant screening website and program. If you missed the meeting, go to their website and view the video.

The Kenosha Landlord Association is looking for members who would be interested in being considered for two open positions on our Board of Directors. You do not have to hold an officer position to serve on the board. If you can bring new and fresh ideas on how we can grow our organization or would like to be more involved in the operation of the association, please attend the next board meeting at Belongia-Hervat Realty on Wednesday, December 2, at 6pm, 6113 14<sup>th</sup> Avenue, Kenosha, and submit your name for consideration. You can also submit your name with any of the board members at the November meeting.

The November meeting will be an Open Forum.

**Meeting: Wednesday, November 18th, at the Fireside Restaurant and Lounge, 2801 30th Ave. Appetizers and networking at 6:30 pm. Meeting begins promptly at 7:00 pm.**

**DISCLAIMER:** The Kenosha Landlord Association publishes this newsletter to create awareness of issues relating to the rental housing industry. Information is compiled from a variety of sources and the views and concerns expressed by the contributors do not necessarily reflect those of the editor or the Association. When necessary, we suggest you consult an attorney.



## When Do You Settle The Security Deposit?

Source: <http://justalandlord.com/>  
By Tim Ballering



In the case that a tenant owes rent or other easily determinable charges, it is safest to send the letter as soon as practical and bill them separately for other damages.

Returning keys may or may not be important in establishing the date the clock starts rolling. More importantly is when did you know they were out and what was the termination date of their agreement.

§704.28 (4) (b) was a big change. Let's say a tenant on a year lease vacates four months early, depending on when the unit gets re-rented, the 21 days could start up to four months after they vacate. This also applies to month to month occupancies. If the tenant moved without notice, the notice date is implied to be the date the owner learned they moved out.

I look at (4) (b) as more of a safety net for owners that are sloppy in their response times or did not know the date the tenant vacated. A far better approach would be to send a deposit transmittal letter as soon as you learn they left before the end of the agreement, stating the deposit is being applied to the rent due and that they are liable for the rent until, for example, Feb 29th, 2016 unless the unit is re-rented prior to that date. Also note that you are attempting to re-rent the unit.

Even if (4) (b) keeps you from losing a deposit lawsuit, it probably does not keep you out of court as tenants still believe the 21 days start the day they left and not the last day of the lease that could be months in the future.

I feel it is very important when a tenant owes rent equal to or more than the deposit that you limit the deposit withholding letter to the rent with a notation that they are being billed separately for other damages. If you have late fees in the written agreement those too can be part of the undisputed deposit withholding letter. [(Attorney Tristan Pettit points out that I was not clear that late fees must also be included in the non standard provision.)]

There have been a few cases, including an outstate unpublished appellate decision, where the courts have doubled the wrongfully withheld items on a deposit transmittal letter and then applied that to a determination of double damages and attorney fees even though the rent alone exceeded the deposit. For example the tenant has one month's rent as deposit and leaves owing a month's rent. The landlord, being angry they left in the middle of the night puts \$500 charge on the deposit letter for changing the locks. Tenant now is also angry and takes the landlord to court. Some courts will mistakenly double the wrongfully withheld \$500 and then clip the owner for the tenant's attorney fees on top of that. Had the deposit letter just had the rent due on it and the owner billed the tenant for the questionable charges it would not have made the owner any less of a butthead, but he would have some money left to sign up for meditation or anger management classes.

You should also use the separate bill method for other things that are legit, but cannot be deducted from the deposit such as carpet cleaning if written into the rental agreement. Note that our company does not charge for carpet cleaning, but the WI Attorney General has said you may, as long as you do not deduct the charge from the deposit.

704.28 (4) Timing for return. A landlord shall deliver or mail to a tenant the full amount of any security deposit paid by the tenant, less any amounts that may be withheld under subs. (1) and (2), within 21 days after any of the following:

- A. If the tenant vacates the premises on the termination date of the rental agreement, the date on which the rental agreement terminates.
- B. If the tenant vacates the premises or is evicted before the termination date of the rental agreement, the date on which the tenant's rental agreement terminates or, if the landlord re-rents the premises before the tenant's rental agreement terminates, the date on which the new tenant's tenancy begins.
- C. If the tenant vacates the premises or is evicted after the termination date of the rental agreement, the date on which the landlord learns that the tenant has vacated the premises or has been removed from the premises under s. 799.45 (2).



## Millennials Likely to Continue Dominating Apartment Demographics Age Group's Home Ownership Rate Declines

Source: <http://www.axiometrics.com> . Contributed by Kenneth Herbert, 2015

As the economy recovers and the bank accounts of young workers swell, some might expect those individuals to put their newfound wealth toward a mortgage. This, however, is not the case.

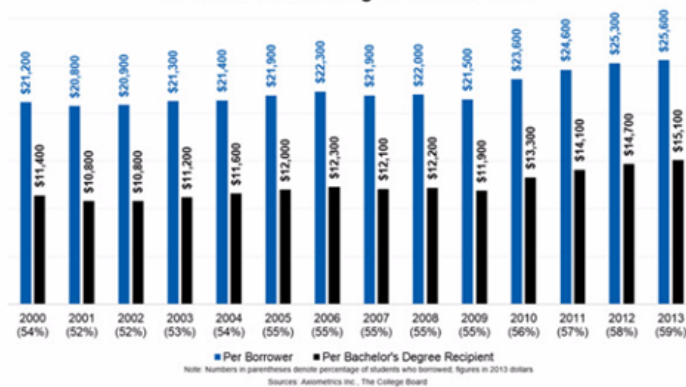
Millennials seem to be avoiding home ownership more than any other generation in recent memory, affecting apartment demographics.

Home ownership among adults ages 35 and younger has sunk to 36.8 percent according to U.S. Census statistics, 6.3% below the peak of 43.1 percent in 2004. Several factors contribute to this trend.

One of the most frequent reasons cited for not wanting to commit to a mortgage is the burden of student loans. The prominence of student loans has increased for decades, and it is no wonder when looking at tuition rates through the same time frame. Average annual tuition to a private, nonprofit university (before room and board) was \$10,273 in 1974-75 (that number is in 2014 dollars). In 2014-15, you would pay \$31,231 per year, according to The College Board. If you are more economically minded and chose a public school, tuition in 1974-75

would have cost you \$2,469, compared to \$9,139 in 2014-15.

Average Total Debt Levels of Bachelor's Degree Recipients, Public Four-Year Colleges and Universities



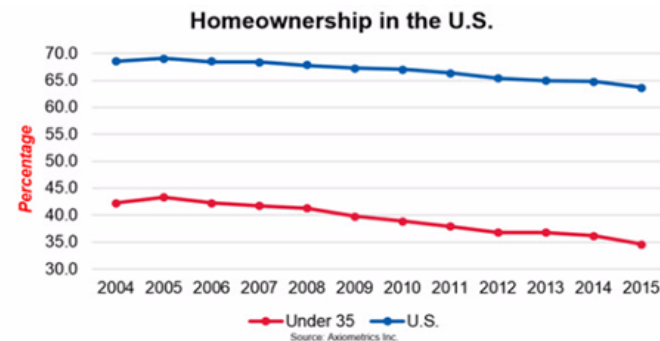
With a three-fold increase in tuition costs in the past 40 years, it is no wonder millennials can't afford to, or won't consider taking on, the financial burden of a mortgage.

Income is another factor pushing millennials to rent. Wages are nearly to the level they were in 2007, before the Great Recession. However, the cost of living has since increased. Making \$900 in 2015 is a lot different than making \$900 in 2007.

The median cost of a house in August 2015 was \$292,700, whereas a house in 2007 was \$269,633 dollars. This doesn't take into account other monthly expenses and how they have gone up disproportionately to wages.

Axiometrics forecasts effective rent to increase by almost \$150 from 2016-2018. As rent continues to climb and the rate of wage growth continues at a snail's pace, home ownership for young people will likely remain at a low level. The percentage of income put toward personal savings in 2012 was 3.5%, according to the Bureau of Labor Statistics; it is projected to be 3.2% in the next couple of years. So while incomes may go up,

expenses also will climb resulting in a similar inability to save.



A more modern problem seen when saving money is letting your money "trickle away," according to an article in "Generation X Finance." Past generations didn't have Netflix, premium cable, online gaming, Internet or cell phones. Each of these features has multiple levels, and each level up costs more money. Millennials are more likely to want the best cable, cell phone and Internet packages, which all lead to hundreds, if not thousands,

more dollars spent annually. When you multiply these numbers over a five-year period, you are talking about several thousand dollars that could have otherwise been used for a down payment.

Continued on page 4



## Millennials Likely to Continue Dominating Apartment Demographics (Con't)

Other lifestyle changes seen among millennials have to do with family. Millennials have been “putting off marriage or having children or both,” a dynamic reported in several places. This phenomenon has contributed to the lack of home buying. When you buy a house, you are solidifying your presence within a certain geographical region. If you aren’t married and have no children, there are fewer anchors to your location.

And as current millennials age and eventually put down roots, a whole new generation is coming up who will likely follow the same path of connectivity and socialization as the current 20+-year-olds, and they also will be likely to rent. That new generation, known as generation C, will live in a world where urbanization will be greater than it is now, according to a report from “Strategy&.” By 2020, populations in G7 countries will be 80% urban, so renting will likely still be a popular choice.

Besides, living in a city is a great experience “before you have a spouse and children,” according to a “Money” magazine article, Millennials weren’t getting married for a long time, so they were living where single life was fun. But as they get married, they often move to the suburbs, or at least out of the urban core. But that new generation will be more than happy to fill their place.

The trends discussed above are positive for those in the rental-housing market. As more people live in apartments for longer, there is an increased demand, and therefore increased financial opportunities, for new and expanding properties in urban areas throughout the nation.



## ELECTIONS COMING SOON



**Now is the time to submit nominations for the KLA Board of Directors.**

The Board will be accepting nominations for our 2016 Board up to and through December 2, 2015. There will be two openings to fill.

Nominees for open Board of Directors positions should attend the December KLA Board meeting which will be held December 2, 6:00 pm at Belongia-Hervat Realty, 6113 14<sup>th</sup> Avenue, Kenosha.

In December the Board of Directors will make recommendations from the nominees. Those individuals will be on the ballot for the election in January.

In January 2016 the new board is voted on and will be installed at the holiday party in January.



## Can I Deduct My Own Labor From A Deposit

Source: <http://justal landlord.com/>

By Tim Ballering



What I've seen in Milwaukee County Small Claims Court over the years is mixed. Some Court Commissioners accept §704.07(3)(a) [below] as applying and require the tenant to "reimburse the landlord for the reasonable cost" although a couple of commissioners have taken ATCP 134.06(4)(b) to mean actual costs only. But a strong argument against this position is ATCP 134.06(4)(a) also allows for "reasonable compensation"

There was a published case, which for whatever reason I cannot find, that allowed an owner's \$15 per hour labor charge.

There is also a unpublished Court of Appeals opinion where an owner had an hourly rate in his non standard "The court also awarded the Hofackers \$45 per hour for labor, pursuant to one of the [nonstandard] provisions." I would not rely on this case as the amount per hour sounds excessive to me, plus it was a District III decision, which often rules far differently than District I. Also note that the landlord ultimately lost the case at the trial court on other issues and was charged \$11,417 in attorney fees plus \$3,796.64 in double damages for withholding a \$1,300 deposit, some of which the court allowed as a deduction. This case should be a warning to those who overstate charges even when they are entitled to withhold all or part of the deposit.

Despite Hofacker being a poor case, having a nonstandard provision where the labor rate is more inline with normal labor costs may be helpful for owners that do their own work.

The best option though for those who do some work on their properties, but also pay to have work done, is to direct the paid labor towards deposit type issues and work on items that will not be charged to the tenant yourself.

### The Statute and Admin Code

**§704.07(3)(a)** If the premises are damaged by the negligence or improper use of the premises by the tenant, the tenant must repair the damage and restore the appearance of the premises by redecorating. However, the landlord may elect to undertake the repair or redecoration, and in such case the tenant must reimburse the landlord for the reasonable cost thereof; the cost to the landlord is presumed reasonable unless proved otherwise by the tenant.

**ATCP 134.06(4)(b)** No landlord may intentionally misrepresent or falsify any claim against a security deposit, including the cost of repairs, or withhold any portion of a security deposit pursuant to an intentionally falsified claim.

**ATCP 134.06(4)(a)** If any portion of a security deposit is withheld by a landlord, the landlord shall, within the time period and in the manner specified under sub. (2), deliver or mail to the tenant a written statement accounting for all amounts withheld. The statement shall describe each item of physical damages or other claim made against the security deposit, and the amount withheld as reasonable compensation for each item or claim.



## Lead-Based Paint Disclosure for Rental Property

Source: <https://rpoaonline.org/kb/lead-based-paint-disclosure-rental-property/>

Recognizing that families have a right to know about lead-based paint and potential lead hazards in their homes, Congress directed EPA and HUD to work together to develop disclosure requirements for sales and leases of older housing. These requirements became effective in 1996.

All tenants should be given the proper lead-based paint disclosure form along with other pertinent documents before a lease is signed and dated. This applies if the property you are leasing was built before 1978 (see some exemptions below). Make sure all parties sign and date the disclosure as appropriate.

The fines for not complying with this Federal regulation are extremely punitive. Many successful civil judgments against rental property owners have been based, in part, due to the lack of proper lead-based paint disclosure at the time of leasing a property.

### What is Required:

Before ratification of a lease contract for housing:

- Landlords must disclose known lead-based paint and lead-based paint hazards and provide all available reports to renters.
- This includes past hazards that have been remediated.
- This includes ALL reports for the home, including inspections, risk assessments, and clearance reports. Even if a clearance report has been provided, all other previous reports must still be provided. This includes results from do-it-yourself testing and citations from public health.
- All reports must be provided in full. Summary reports are not acceptable, except when a comprehensive summary has been provided by the third-party that conducted the inspection. When in doubt, provide the paper.
- It is not sufficient to make the reports available for review. Copies of the reports must be provided to the tenant in advance of signing the lease.
- Landlords must give renters the pamphlet, developed by EPA, HUD, and the Consumer Product Safety Commission (CPSC), titled Protect Your Family from Lead in Your Home.
- Leasing agreements must include certain notification and disclosure language.
- See disclosure form.
- Lessors and real estate agents share responsibility for ensuring compliance.
- The disclosure statement **MUST** be signed the same day or prior to signing the lease.
- The disclosure form **MUST** be dated and signed by both parties.

Continued on page 7



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## Lead-Based Paint Disclosure for Rental Property (Con't)

- If a new lease is executed, disclosure must be repeated. Examples of when disclosure must be repeated, include adding a new person's name to the lease or moving the tenant between units. The only exception to this is when the lease is simply renewed by the same tenant(s) for the same unit.

### What is Not Required:

- This rule does not require any testing or removal of lead-based paint by landlords.
- This rule does not invalidate leasing contracts.

### Type of Housing Covered:

- Private housing, public housing, federally-owned housing, and housing receiving federal assistance built before 1978. This includes housing that has had lead-hazards remediated without full abatement, such as those participating in the City of Grand Rapids Get the Lead Out! Lead Hazard Control program.

### Type of Housing Not Covered:

- Housing built after 1977 (Congress chose not to cover post-1977 housing because the CPSC banned the use of lead-based paint for residential use in 1978).
- Zero-bedroom units, such as efficiencies, lofts, and dormitories.
- Leases for less than 100 days, such as vacation houses or short-term rentals.
- Housing for the elderly (unless children live there).
- Housing for the handicapped (unless children live there).
- Rental housing that has been inspected by a certified inspector and found to be free of lead-based paint. There is a difference between free of "lead hazards" and free of "lead-based paint." The latter means that ALL lead-based paint has been removed and does not include treatment such as covering over lead-based paint with vinyl siding or encapsulant paint.
- Foreclosure sales (aka "sheriff sales").

### Note About RRP Disclosure Requirements:

The EPA Renovate, Repair & Painting rule that became effective in April 2010 requires that an additional disclosure be made before carrying out any renovation, repair or painting work that will disturb interior and/or exterior surfaces that contain lead paint.

Keep in mind that RRP disclosure is not the same as that required at the time of the execution of a lease. Some RRP trainers have inadvertently confused this issue. BOTH disclosures are required where appropriate.

### Helpful Checklist to Ensure Proper Disclosure:

- Prepare disclosure statement (attached) by filling out the "Lessor's Disclosure" section.
- Make TWO copies of all reports and documentation. Attach one set of the copies to the disclosure statement to be provided to the tenant. Save the other set of copies to be filed with the signed disclosure statement.
- Secure a copy of Protect Your Family from Lead in Your Home (the "blue book").
- Provide prospective tenant with ALL reports and documentation.
- Provide prospective tenant with a copy of Protect Your Family from Lead in Your Home.
- Have the tenant initial, sign and date the disclosure statement prior to signing the lease. Make sure the disclosure statement is signed and dated for the same date (or earlier date) than the lease.
- Retain the original copy of the disclosure statement in your files indefinitely. Attach copies of all reports provided.
- If the lease is altered in the future (new tenants added, change of unit, etc.), you must re-disclose.



## Sad State of Evictions in Milwaukee

Source: <http://justalandlord.com/category/industry-stats/>



I extracted the data from the **28,835 Milwaukee County eviction cases** between 1/1/13 and 2/28/15.

Landlords who went to court lost **\$22,677,299.01** in these 26 months.

Remember this was only Milwaukee County And only a small fraction of cases end up in court or are pursued to a money judgment. Most owners I've spoken to tell me that less than a quarter of their non paying tenants end up in eviction court.

Some sad facts:

- Only half the cases resulted in a money judgment against the tenant (14,424 of the 28,835)
- 12066 were dismissed either by the court or on stip
- Largest judgment \$243,255.95 (commercial)
- Largest residential eviction judgment: \$24,348.00
- Smallest judgment \$1.30
- 4,020 judgments under \$200
- 6,846 judgments over a grand (\$1,000-243,255)
- 4,194 judgments over two grand (\$2,000-243,255)
- 2,106 Judgments over three grand (\$3,000-243,255)
- 1,068 Judgments over four grand (\$4,000-243,255)

### Landlord/Crime Free Multi-Housing Rental Seminar

Tuesday, January 19th (6pm-9pm)  
Wednesday, January 20th (6pm-9pm)  
Thursday, January 20th (6pm-9pm)

Location: Boys and Girls Club  
1330 52nd St.  
Kenosha, WI 53140

The KPD Crime Prevention Unit and the Kenosha Landlord Association designed this Seminar to help landlords make better decisions when managing their rental units.

#### The following topics will be discussed:

- Property Maintenance Codes
- Crime Prevention Techniques
- Applicant Screening
- Leases and Evictions
- Crime Free Lease Addendums
- Process Serving
- C.P.T.E.D. (Crime Prevention through Environmental Design)
- Fire Safety
- Waste and Disposal



To register for the seminar  
Please call:  
Crime prevention Unit at 657-3937  
or e-mail: [watch@kenoshapolice.com](mailto:watch@kenoshapolice.com).

This seminar will help landlords  
and  
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- Stabilized property values and rents
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RETURN SERVICE REQUESTED

**Next Meeting**

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Membership Meetings  
are held on the  
3rd Wednesday of the month

**November 18, 2015**

**6:30 p.m. networking**

**7:00 p.m. meeting**

**Appetizers & Networking at 6:30 pm Meeting at 7 pm**

**OPEN FORUM**

Wednesday, November 18, 2015 at 7:00pm  
Cocktails and Pizza at  
6:30 pm

**[www.kenoshalordassociation.org](http://www.kenoshalordassociation.org)**

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