



Application Fees

What are they? How can they be used? Do I get them back?

When a prospective tenant pays a fee when applying for rental housing it is typically called an "Application Fee." By Wisconsin Statutes and Administrative Code, these fees are considered "Earnest Money." Earnest Money is a specific type of deposit with rules about how it can be used. Landlords can ask for and accept Application Fees, but they must follow State of Wisconsin guidance on how they are used. Earnest Money includes all the money which the applicant pays to the landlord before they sign a lease. Fees not included in Earnest Money are the actual cost of a credit check, up to \$25, and a background check for applicants applying from outside of Wisconsin, up to \$25.

Applicants can avoid paying the \$25 credit check fee if they provide their own copy of a credit report that is less than 30 days old. Applicants can receive a free credit report each week at annualcreditreport.com

If a landlord requires applicants to pay an Application Fee and then does not approve the application, they must return the entire amount of the Application Fee (less the \$25 credit check fee, if charged by the landlord) by the end of the next business day.

(Wisconsin Administrative Code Chapter ATCP 134.05(2))

If a landlord approves the application but the renter changes their mind and decides not to rent, the landlord may withhold from the Application Fee actual costs or damages to re-rent the property. **(ATCP 134.05(3))**

If the landlord accepts the tenant and a lease is signed, they must either return the Application Fee or apply it to the security deposit or the first month's rent.

(ATCP 134.05(2)(b))

*** Local municipal codes can give applicants more protection. Check local laws. ***





Before a landlord can accept any money from an applicant, they must complete the following six actions:

1. Let the applicant look at the lease.
2. Explain the specific unit(s) the applicant is applying for.
3. Tell the applicant if there are any current building code violations.
4. Tell the applicant if any of the money will be used for a credit check fee, maximum of \$25 per applicant. Applicants can avoid paying the \$25 credit check fee if they provide their own copy of a credit report that is less than 30 days old. You can receive a free credit report each week at **annualcreditreport.com**
5. If the applicant is applying from outside of Wisconsin, notify them if any of the money will be used to pay for a background check, maximum of \$25 per applicant.
6. Explain which utilities are and are not included in the rent. If there are not separate meters for each unit, explain how the utilities are divided between the units and common spaces.

The above requirements are found in **ATCP 134.02, 134.03, 134.04, 134.05**

A landlord can hold Earnest Money for 3 business days while reviewing an application, or, if their application says they can keep it longer, a maximum of 21 calendar days.

If a landlord will not return an Application Fee, applicants can file a complaint with the Department of Agriculture, Trade, and Consumer Protection (DATCP) at **datcp.wi.gov** or at **800-422-7128**. The applicant can also sue in small claims court for double what they are owed plus court costs and reasonable attorney's fees. Notifying a landlord about the intention to contact DATCP might cause them to return the application fee.

