

**From:** "" no-reply@kvcore.com  
**Subject:** Can I get my deposit back  
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# Buying or Selling a Home



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## Can I get my deposit back?

Article #10

I'm very interested in buying a certain house, but the seller wants me to fork over a really big deposit. If I change my mind, can I get my deposit back?

The short answer to your question is that, in most cases, real estate transaction deposits are not refundable.

There's no set amount for deposits, however. If the owner's demand for a large deposit is a major sticking point, you could ask your real estate representative to try to negotiate a lower deposit amount with the seller.

A deposit is the money you put down to secure a property that you want to purchase. Providing a deposit is both a gesture of good faith and a serious commitment. Once the seller accepts your written offer, it becomes an Agreement of Purchase and Sale (APS), which is a legally binding contract.

Once the APS is signed and the deposit is provided to the seller's rep, attempting to renege on the APS by saying, "Sorry, I'm no longer interested" is highly inadvisable. You will almost certainly lose your deposit. The seller also might sue you for damages for any difference between the amount of your offer and the amount they accept from another buyer, along with any additional legal fees and carrying costs. You don't want to go down that road.

Deposits are sometimes returned to would-be buyers when conditions are placed on an offer and the conditions aren't satisfied. For instance, if you make an offer on a house on the condition of financing, but your bank won't approve it. Or your purchase depends upon the

condition of financing, but your bank won't approve it. Or your purchase depends upon the successful sale of your current home, but it doesn't sell in time. Or you make your purchase conditional on a home inspection and the home inspector discovers a problem that stops you from moving forward.

If you can't go through with the purchase because your conditions haven't been met and you want your deposit back, you'll have to sign a release form and get the seller's signature, too. It's a pretty straightforward procedure and sellers will usually go along with such requests. But if the seller suspects you didn't act in good faith, they could refuse to hand over the money.

What happens next? Well, the deposit would stay in a trust account, usually with the seller's brokerage, and the dispute between you and the seller would become a legal matter. If you and the seller are unable to arrive at a settlement, a judge could eventually release the funds through a court order. But I'll warn you: that can take a long time.

It's a myth that a seller can pocket a buyer's deposit any time a deal falls through. Cases involving deposits of \$25,000 or less can be decided in small claims court, which is relatively inexpensive and easy for ordinary Ontarians to use. Cases involving larger deposits, however, are decided in Ontario's much more formal Superior Court of Justice. Court cases can quickly become expensive, so you should carefully consider all of your options before taking this route.

If you're serious about buying this house, I strongly recommend working closely with both a lender — to get your financial ducks in a row — and a real estate salesperson before you commit yourself to a deal and hand over a deposit.

*Joseph Richer is Registrar of the Real Estate Council of Ontario (RECO). He is in charge of the administration and enforcement of all rules that govern real estate professionals in Ontario. You can find more tips at [reco.on.ca](http://reco.on.ca), follow on Twitter @RECOhelps or on YouTube at <http://www.youtube.com/RECOhelps>.*



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