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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 90 ADM-7

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: February 5, 1990

SUBJECT: Security Deposits: Recoupment of Monies Under Security
 Agreements Paid to Landlords Due to Recipient Caused Damages

SUGGESTED
 DISTRIBUTION:

Food Stamp Staff
 Public Assistance Staff
 Staff Development Coordinators

CONTACT
 PERSON:

Public Assistance: John McCarthy, extension 4-9346
 Food Stamps: County Representative, extension 4-9225

ATTACHMENTS:

There are no attachments to this ADM.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		352.6	106-b	PASB	
		352.31(d)	143-c	XIII-D-2.1 through D-2.3	
				FSSB	
				XII-G-1	
				XII-G-2	

I. PURPOSE

The purpose of this directive is to inform you about a change in policy requiring security deposits and monies paid under security agreements to landlords for recipient caused damages be recouped under certain conditions.

II. BACKGROUND

Previously, Department regulations limited recoupment of security deposits and monies paid under security agreements to non-payment of rent. A new section 352.6(c)(2) was added to Department regulations to allow, under certain conditions, for recoupment of security deposits and any monies paid under a security agreement due to recipient caused damages.

III. PROGRAM IMPLICATIONS

Allowing recovery of money lost due to recipient caused damages will afford local districts more control over security deposits and agreements and will produce both local and State fiscal savings.

IV. REQUIRED ACTION

A. Public Assistance

Local districts must conduct or arrange for a pre-move and post-move inspection or survey of the premises to be secured before any recovery of security can be initiated. It is acceptable to devise alternate measures to the personal inspection of the premises by a social services official, provided that these alternate measures adequately address the pre-move and post-move inspection or survey requirement of the regulation. Alternate measures may include but are not limited to existing inspections, inspections conducted by local code enforcement agencies, other agencies or individuals, etc.. Any damages noted during the pre-move inspection or survey must be recorded on a form developed by the local district. The damages must be agreed to by the landlord or authorized agent, recipient and agency representative. If the post-move inspection or survey does not confirm recipient caused damages, then cash must not be issued for damages or if a cash security deposit had already been issued and the landlord retains it for alleged damages, recovery action must be initiated by the local district against the landlord, not the recipient. Recovery must be initiated against the recipient for any security monies issued when the

post-move inspection or survey confirms that recipient caused damages exist. Recovery of security from the recipient should not occur where it is the local district's judgement that the landlord is retaining the security for normal wear and tear conditions rather than damages.

B. Food Stamps

Security deposits retained by the landlord because of recipient caused damages are not counted as income for food stamp purposes. Further, the amount of the public assistance recoupment that is being taken due to a security deposit being retained by the landlord is not counted as income for food stamps.

V. SYSTEMS IMPLICATIONS

A. ABEL Upstate

Recoupments taken to recover money lost due to recipient caused damages should be coded Recoupment Type "2 - Client Error" on ABEL. If a new code is developed for use in this specific case situation, an ABEL transmittal will provide details on its use.

B. ABEL NYC

Recoupments taken to recover a security deposit lost due to recipient caused damages should be coded as Offense Type C (Concealment) and Offense Subtype 17 (Forfeiture of Security Deposit).

VI. EFFECTIVE DATE

February 1, 1990 retroactive to December 20, 1989.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance