

**1462A ABSCONDING WITHOUT PAYING RENT: AFFIRMATIVE DEFENSE
— § 943.215(2) OR (3)**

ADD THE FOLLOWING TO WIS JI-CRIMINAL 1462 IF THERE IS EVIDENCE OF THE DEFENSES RECOGNIZED IN § 943.215(2) OR (3).

[Wisconsin law provides that it is a defense to this crime if the defendant had provided the landlord with a security deposit that equaled or exceeded the amount owed to the landlord regarding rent and damage to property, if any.¹]

[Wisconsin law (also) provides that it is a defense to this crime if, within five days after the day he or she vacates the rental premises, he or she pays all current and past rent due or provides to the landlord, in writing, a complete and accurate forwarding address.²]

If you are satisfied beyond a reasonable doubt that all three elements of this offense have been proved, and also are satisfied beyond a reasonable doubt that [this defense did not exist] [neither of these defenses existed], you should find the defendant guilty.³

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1462A was originally published in 1999. This revision was approved by the Committee in December 2007 and involved adoption of a new format and nonsubstantive changes to the text.

This instruction should be added to Wis JI-Criminal 1461, Fraud on Hotel or Restaurant Keeper, when there is evidence of the defenses provided in § 943.215(2) and (3). The instruction is drafted to allow submission of either or both defenses through selection of the appropriate bracketed material.

1. Section 943.215(2).
2. Section 943.215(3).
3. Section 943.215(4) provides that if the existence of a defense has been placed in issue, the state must prove beyond a reasonable doubt that the facts constituting the defense do not exist.