



Where is my earnest money and how do I get it, now?

This is a very brief summary explanation for buyers who are in the midst of a failed purchase agreement and are expecting, but not getting, their earnest money back.

*Under Ohio law, even though you may believe you are entitled to your earnest money back, if it is being held by a real estate broker, then your money **can only be returned** in one of these four ways:*

- 1. A closing occurs.*** (But that is not happening here- hence your inquiry)
- 2. A signed mutual agreement between buyer and seller.*** Most probably this is what your real estate agent is pursuing and may have had you already sign the form. It is now a matter of getting the seller to agree and sign.
- 3. A court order.*** Should the buyer and seller not reach a mutual agreement as to who should receive the earnest money, either party may pursue legal action. If less than \$3,000 that can be a small claims court action. Kettering Municipal court- Small claims. <http://www.ketteringmunicipalcourt.com/index.php?page=small-claims-guide> For larger amounts seek legal counsel from a experienced real estate attorney. A broker must return the earnest money as directed by the court.
- 4. After 2 years,*** if already stipulated in the original purchase agreement and if no legal action is being taken, ***the money can be returned to the buyer.***

If you are not being kept apprised of the status of the return of your earnest money then contact your agent and/or their broker manger. If you are not being kept informed call the agent's office and ask to speak with the manager/broker /owner. Also refer to and discuss the terms of your original contract to purchase real estate with your agent and their broker.

For a complete explanation of the complexity of handling earnest money please refer to "Earnest Money Matter in Plain English" also on this site.