

New Abandoned Personal Property Law Effective December 22, 2014

Governor Corbett signed HB1714 in to law. It is now Act 167 of 2014. It overhauls the portion of Pennsylvania's Landlord and Tenant Act that deals with abandoned personal property. The bill finished its journey with a few scars, but is in keeping with what State Representative Scott Petri (R, Bucks) envisioned when he introduced it.

As HB1714 moved along, dangerous amendments were introduced and we had to stay proactive. The resulting law, which goes in to effect on December 22, 2014, lists the situations in which personal property may be deemed abandoned as well as steps rental owners must take before disposing of the property.

The old law, Act 129 of 2010, contains language that only recognizes when the premises could be deemed abandoned: when there is execution of an order of possession or if the tenant has physically vacated the premises, removed substantially all personal property and gave a forwarding address or written notice to the landlord stating that he or she had vacated. But it did not help rental owners in many situations in which a tenant leaves with no notice and no forwarding address. Representative Petri's approach in Act 167 should help rental owners in situations in which it is obvious the resident has left for good, but some personal items remain in the unit. And the notice requirements in the new law should be clearer and easier to follow.

Here are the highlights of Act 167, which goes into effect December 22, 2014:

- Upon termination of a lease or relinquishment of possession of real property, a rental owner may remove any abandoned personal property remaining only if any of the following apply:
 - The resident vacated following the termination of a written lease
 - An eviction order or order for possession has been entered and the resident has vacated and removed substantially all personal property.
 - An eviction order or order for possession in favor of the owner has been executed.
 - The resident has provided the landlord with written notice or a forwarding address and has vacated the unit and removed substantially all personal property.
 - The resident has vacated without communicating an intent to return, the rent is more than fifteen days past due and, subsequent to those events, the landlord has posted notice of the tenant's rights regarding the property.
- Before removing or disposing of the personal property, the owner must provide written notice of the resident's rights regarding the property. The resident has 10 days from the postmark date of the notice to retrieve the property or to request that it be stored, for no more than 30 days. The owner would then have to retain or store the property for up to 30 days from the date of the notice. Residents would be responsible for storage costs.
- Notice must be sent by first class mail to the resident at the address of the leased premises and to any forwarding address provided by the resident, including any emergency contact. The Act also provides the specifics of the form and language the notice must take.
- Under no circumstances may an owner dispose of or otherwise exercise control over personal property remaining in inhabited premises without the express

permission of the resident. The owner has no right to exercise control over the personal property unless the above listed conditions under which personal property may be deemed abandoned exist.

- If owners have knowledge or are notified of a protection from abuse ordered for the protection of the resident or family member, the owner must not dispose or exercise control over the personal property for 30 days from the date of the notice, and must store the property for up to 30 days if requested.
- Where a resident dies and leaves personal property, this Act shall not apply. In those cases Pennsylvania law regarding decedents' estates apply.
- Rental owners who violate the provisions of this act will be subject to treble (triple) damages, reasonable attorney fees and court costs.

Last year Representative Petri asked for our assistance in moving HB 1714 through the legislative process. **Many, many, many thanks to April Betau of Kamson Corporation who brought the story to life with her testimony before the House Urban Affairs Committee, and to Mike Woodward and his team, including Morgan, for providing photos- truly worth a thousand words!**