

In Act 167 PROA Sees Another Victory for Landlords Dealing with Abandoned Tenant Property

[On behalf of Dornish Law Offices, PC](#) | Jan 2, 2015 | [All, Landlord-Tenant, Real Estate Practice](#)

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Since the passage of Act 129 in the summer of 2012, landlords in Pennsylvania have had far more direction from PA law on how to handle personal property left behind by tenants who have vacated their rental units than was ever previously available. Our state organization, the Pennsylvania Residential Owners' Association, (PROA) worked for many years to get that key piece of legislation drafted, through the legislative process, and to see Act 129 become law. By now, all of us should be using residential leases with the Act 129 required language in them.

Yet we knew at the time it was passed that Act 129 did not cover every circumstance when a tenant left property behind in your rental units. That law covered only two ways a tenant "relinquished possession":

- 1) If a landlord filed a magisterial district court action for possession, went to a hearing, got a judgment, waited for the 10 day appeal period to expire, and then executed on the order of possession by having a constable lock the tenant out of the property; and
- 2) If the tenant physically vacated the property either before or after an eviction action AND removed substantially all of his or her possessions AND provided a forwarding address or written notice to the landlord that the tenant has vacated.

Act 129 has worked well since its passage for those two situation, provided the landlord updated his or her lease to include the required notice to the tenants of their rights under the Act, but did not address at all the single biggest cause of personal property being left behind in PA rental units- tenants who owe back rent skipping out.

PROA has been diligently working behind the scenes for the past two years on these issues, collecting your stories of abandoned property in your units, sharing those stories with legislators through our lobbyists, and the tireless efforts of PROA Executive Director Rita Dallago. Lawyers and landlords on the PROA Board have drafted suggested language, revisions and comments to language in drafts of the legislation, and our members have offered testimony at public hearings.

All of these efforts and the hard work of legislators who appreciated the problems we faced with old furniture, food, clothing and bedding left behind by tenants in rental units led to the passage on October 15th and approval by the Governor on October 22nd, 2014 of House Bill 1714, now known as Act 167 of 2014. Act 167 extended Act 129 to now allow personal property left behind to be deemed abandoned in FIVE circumstances:

- 1) When a tenant has vacated the unit following the termination of a written lease;
- 2) When an eviction order or order for possession in favor of the landlord has been entered and the tenant has vacated the unit and removed substantially all personal property;
- 3) When an eviction order or order for possession in favor of the landlord has been executed;
- 4) When a tenant has provided the landlord with written notice of a forwarding address and has vacated the unit and removed substantially all personal property; and
- 5) When the tenant has vacated the unit 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 personal property on the door of the unit.

The additional situations to which Act 167 applies should cover most of the problems Pennsylvania landlords have with abandoned tenant possessions. However, there are still situations to which the act won't apply, the most significant of which is when a tenant dies. Your lease should have provisions for termination of a lease after death of the only named tenant, and time for removal of their property. If you use my current lease form, see Paragraph 39 "Death of Tenant". You should know not to let just anyone who says they are a relative into the property, but to wait for the executor or administrator of an estate filed with the court, who should provide an official court form called "Letters Testamentary" or "Letters of

Administration” which you can keep, before you give them access to the unit.

There are also special provisions in Act 167 for tenants who are under the protection of a protection from abuse order or “PFA”. If a landlord has actual knowledge or is notified that a tenant or a member of the tenant’s immediate family is under the protection of a PFA, a landlord must refrain from disposing of or taking control of personal property of the tenant for 30 days after the notice, and must store the tenant property for up to 30 days from the date of a request, if requested.

To protect tenants from landlords’ abuse of the new law, there are strong new consequences including triple damages, attorneys’ fees and court costs imposed on landlords who violate the rules of Act 167. Finally, there is a provision that terms of a written lease which are different from the new language can modify the rights under the law, except for those involving tenants protected under PFAs. Remember before you draft different provisions for your leases that it will be up to the courts to determine if tougher language you have in a lease meets the requirements of the Plain Language Consumer Contract Act, as well as other laws, and affords tenants due process of law. I am simply following Act 167 to avoid these issues.

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