

Pennsylvania Finally Passes Act 129 Law on Abandoned Tenant Property

[On behalf of Dornish Law Offices, PC](#) | Jul 12, 2012 | [All, Landlord-Tenant](#)

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For many years, landlords (and tenants) in Pennsylvania have faced uncertainty on their respective legal rights to personal property of tenants left behind in rental properties. How long did a landlord have to hold onto tenant possessions left in the rental property? To what notice was a tenant entitled before such property was sold or disposed of by the landlord? Often, the answers to these and similar questions depended entirely on the inclination of the local magisterial district judge presiding over disputes between the landlords and tenants, since Pennsylvania had not statute on the subject. For the past several years, our state organization, the Pennsylvania Residential Owners' Association, (PROA) has made the passage of a uniform statewide statute a goal of its legislative efforts. We have previously come close, only to have the goals of predictability and uniformity in how landlords may handle tenant property take a back seat to the objectives of certain tenant advocates wanting to push a law to punish landlords for disposing of tenant property, under any circumstances. With the passage of senate Bill 887 by the PA House on June 30, 2012, and its signature by the Governor on July 5th, landlords and tenants have more certainty and more direction as to dealing with tenant possessions, but only in the circumstances to which the new law known as "Act 129" applies, and only after the law becomes effective in early September. Act 129 deals with the disposition of personal property left behind after a tenant has "relinquished possession of the real property". The law defines this as occurring two ways, the first being by execution of an order of possession. This means the landlord must have filed a magisterial district court action for possession, gone to hearing, gotten a judgment and waited for the ten day appeal period to expire, after which the landlord has sent the constable to lock the tenant out of the property.

In this case, if the writ or order of possession contains a notice that the tenant has 10 days to contact the landlord about the tenant's intent to come back for remaining personal property, which notice magisterial district courts will presumably be adding to their writs, then the landlord doesn't have to give any additional notice to the tenant. The landlord simply waits ten days, and if no notice is received from the tenant, the landlord can dispose of the property left behind. However, the new law makes NO PROVISION for what a landlord must do if there is no notice to the tenant of his or her rights under Act 129 in the writ or order of possession, so make sure every order and writ you obtain has this notice in it.

If the writ or order has the notice provision, and the tenant gives notice to the landlord within ten days that the tenant is coming back for his possessions, the landlord must hold the possessions either in the property or in storage for a total of 30 days, exercising ordinary care with regard to care of those possessions. If the tenant retrieves the goods within the first ten days, the landlord cannot charge the tenant for removal or storage costs, but if the tenant retrieves the goods more than ten days after possession, but within 30 days thereof, the tenant can be charged for the landlord's reasonable costs of both removal and storage. The Act does not specify whether the landlord can refuse to relinquish possession unless the costs are paid simultaneously by the tenant.

The second case which qualifies for "relinquished possession under Act 129 is when the tenant has physically vacated the premises, either before or after an eviction action, AND has removed substantially all personal property, AND has provided a forwarding address or written notice to the landlord stating that the tenant has vacated. Provided all three of these hurdles are met, if the landlord has provided in the lease or addendum to the lease, notice to the tenant of his or her rights under Act 129, then the landlord has to provide written notice to the tenant by regular mail, to the forwarding address provided or to the property address if no forwarding address is given, that the tenant has ten days from the date of the postmark of the notice to contact the landlord about retrieving property left behind. The notice must include an address and phone number where the landlord can be contacted, and must give notice that if the tenant does not retrieve the goods within the first ten days, he or she will be liable for costs of removal and storage incurred by the landlord.

Again, as in the first case, if the tenant does not contact the landlord within ten days (this time of the postmark on the notice), the landlord may dispose

of the goods. If the tenant does contact the landlord, the landlord must allow thirty days from the postmark of the notice for the tenant to collect the goods.

A final caution to landlords who sell the items left behind. If the tenant has given a forwarding address, and the landlord sells the goods for more than the tenant owes the landlord, the excess proceeds of the sale are to be mailed by certified mail to the tenant at the forwarding address. If no forwarding address is given, the landlord must hold the proceeds for thirty days, after which the landlord may keep the excess.

Look for an Act 129 Addendum for you to add to your existing leases, coming soon. Watch for the notice language in writs and orders of possession, and make sure you follow Act 129 when you deal with tenant possessions left behind.

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