

Tricks of the Trade: Abandonment Issues

by Jan Leasure

The question of what to do about abandoned property was asked recently. The answer is somewhat complicated, so even if you took the time to read what the California Civil Code says on the subject, you might still be confused. Here is the "easy-to-read" version! There are some technicalities that apply in some cases, however, so if your situation is atypical at all, you may want to consult a landlord-tenant attorney.

If you think your tenant has moved out of your rental property without notifying you:

1. Wait for fourteen days after the date the rent is due.
2. If the rent has not been paid, complete a Notice of Belief of Abandonment of Real Property form.
3. Serve this form on the resident by sending it by first-class mail to his/her last known address, which is probably the address of the abandoned property!
4. In addition to number three above, send the notice to any address where you think the resident might actually receive it, such as his workplace.

Note: You may serve a Three-Day Notice to Pay or Quit at the same time you serve the Notice of Belief of Abandonment. If the resident pays rent or responds to your notice, saying that his intent is not to abandon the unit AND he/she gives you a current address where you can serve notice, you must proceed as if the unit is not abandoned. If the resident does not respond to the notice within the time outlined in the notice, you may enter the rental property and re-rent it if you want to.

If the resident left personal property in the rental property:

1. If you know how to contact the resident, contact him/her by telephone and ask him/her to return for the items.
2. If you can't reach the resident by telephone, you must give the resident a written notice; Notice of Belief of Abandonment of Personal Property.
3. You may hand the notice to the resident if you know where he/she is, or you can send it by first-class mail to his/her last known address or any address where you think the resident may get mail.
4. You can either leave the personal property in the rental, or you can store it. You should make an inventory of the property and take pictures or a videotape of the property.
5. If the resale value of the personal property is less than \$300, you may do whatever you want with the property (keep it, throw it away).
6. If the resale value of the personal property is more than \$300, the procedure is much more complex (see below).

Note: If the resident responds to the notice and asks for the property, you must give it to the resident if:

- The resident makes a written request for the personal property within eight days.
- The request includes a description of the personal property.
- The request specifies a mailing address for the resident.

- You have the personal property at the time the request is made.
- The resident pays for the removal and storage of the property (although, if the resident can't pay for the costs you have incurred, it is probably the best use of your time and energy to release the property to the resident and get the resident and the personal property out of your life!).
- The resident claims and removes the personal property within 72 hours of paying the costs of removal and storage of the property and at a time agreeable to you and the resident.

If you must sell the property (because the value is more than \$300):

- You must sell the resident's personal property at a public sale.
- You must notify the resident that the personal property will be sold at a public auction.
- You must put a notice of the sale in a newspaper once a week for two weeks.
- You must give the sale proceeds to the County Treasurer within 30 days of the sale. You may deduct the costs of storing the personal property, advertising the property, and the sale of the property.

Note: You cannot demand that the resident pay delinquent rent in exchange for the personal property. Holding the resident's property hostage could cause the resident to charge you with stealing his property. *Jan Leasure has been a landlord for over twenty years and is President of California Landlord Solutions. She may be reached at (831) 655-7844 or by visiting www.californialandlordsolutions.com.*