PA Act 129 Informs Landlords of When to Dispose of Tenant's Abandoned Property

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Pursuant to Pennsylvania Act 129, landlords and building managers now have some guidance on how to handle a tenant's abandoned personal property. Effective September 5, 2012, landlords and managers will have to wait either ten or thirty days before disposing of items left behind by tenants, depending on what notices are given and how a tenant relinquishes the leased premises. The new legislation attempts to settle a longstanding gray area in Pennsylvania landlord/tenant law over what actions landlords should take when tenants leave behind personal property after being evicted from or vacating leased premises. Although somewhat complex, Act 129 now answers questions such as how long must a landlord hold onto abandoned personal property, and what notice should a tenant get before landlord disposes of such property?

Under Act 129, tenants are now required to remove all personal property if a court order evicts a tenant or if a tenant vacates leased premises.

If a tenant fails to remove personal property and landlord has taken possession of the leased premises, Act 129 describes what notices must be given to tenant and when landlord can remove the personal property after such notices. There are different steps to follow whether tenant has been evicted or whether tenant abandons the leased premises. Either way, landlord must give a ten-day notice to tenant to notify landlord that tenant will retrieve the personal property. If tenant gives notice that it will retrieve the personal property, then landlord must hold the personal property for thirty days after the original notice is given to tenant. If tenant fails to remove the personal property within those thirty days, then landlord has the right to dispose of or sell the personal property and keep the proceeds (with any proceeds exceeding any outstanding balances to be returned to tenant). If tenant fails to notify landlord that tenant will remove the personal property within ten days, landlord can dispose of or sell the personal property in the same manner.If the court order to evict contains the statutory ten-day notice and thirty-day removal requirements described above, then landlord need not give tenant any further notice.

If the tenant's lease does not contain the statutory ten-day notice and thirty-day removal requirements, then landlord must give the ten-day notice and thirty-day removal notice not only to the tenant but also to any emergency contacts listed in the lease.

The key here is to include such notices in the court order to evict and in the tenant's lease to avoid landlord from being required to give additional notices. Landlord should also prepare form notices to notify tenants about these requirements.

The remaining provisions of Act 129 are fortunately more straightforward.

- Any notice to the tenant or emergency contact must provide that tenant is responsible for any cost of storing the

abandoned personal property if tenant does not remove it within ten days.

- Landlord must exercise ordinary care with regard to the abandoned personal property.
- If no forwarding address is provided by tenant to landlord, landlord must hold any excess proceeds from the sale for thirty days and then, if unclaimed, may retain the proceeds.

If you need assistance with drafting these provisions and letters, feel free to contact one of our attorneys in the real estate department.

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