

ABANDONED PROPERTY LAWS SIMPLIFIED

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One of the most frustrating challenges faced by landlords and property managers has historically been the handling of abandoned property.

While landlords and property managers have traditionally been required to treat property with a fair market value of less than \$750.00 differently than property of greater value, this is no longer the case. In 2010 the Maine Legislature simplified the process by establishing a uniform system.

A tenant's personal property is considered abandoned if it is not removed from the premises within 48 hours after an eviction is completed by service of a Writ of Possession or upon the tenant otherwise vacating the premises. Property left behind by the tenant may not simply be taken by the landlord, left for the next tenant, sold, destroyed or thrown out. All items must be stored in a safe, dry and secured location.

The first step is to identify all items of personal property that have been left behind by the tenant. The items should be listed, with as much detail as possible. If the tenant has left behind a box or bag of clothing (or any other conglomeration of items), it is sufficient to state that the property consists of one box of assorted clothing. The law does not require the landlord to estimate values of the items.

The landlord is required to send written notice to the tenant by first class mail “with proof



of mailing to the last known address of the tenant”. The letter must advise the tenant of the landlord's intent to dispose of the property that has been left behind. The notice must include an itemized list of the items and containers of items and advise the tenant that if he does not respond to the notice within fourteen days of the date of mailing, the landlord will dispose of the property pursuant to state law.

“Proof of mailing” consists of a Certificate of Mailing. This is not certified mail, but rather is an actual certificate obtained from the Post Office which indicates that a certain item was, in fact, mailed to a particular address.

This is all that is necessary. If the tenant has provided a forwarding address, the notice should be sent to that address. If the landlord is aware of any lienholder or anyone claiming an interest in the property, then a copy of the notice should be sent to them as well.

If the tenant claims his property within fourteen days after the notice was sent (as proven by the Certificate of Mailing), the landlord is required to release the property to the tenant. The landlord may not condition the release of the property upon payment of any fee or any other amount that may be owed to the landlord for rent, damages or otherwise.

If the tenant responds to the notice within the fourteen-day period, the landlord is required to continue to store the property for a total of twenty-four days from the date that the original notice was sent.


If the tenant fails to respond to the original notice within fourteen days, or if he claims the property but fails to retrieve it by the twenty-fourth day after the original notice was sent, the landlord has the right to condition the release of the abandoned property to the tenant upon his payment of all rental arrearages, damages and costs of storage. At that point, the landlord is permitted to sell any abandoned property for a reasonable fair market price and apply all proceeds to rental arrearages, damages, costs of storage and sale. If there are any excess funds, the balance must be forwarded to the Office of the State Treasurer. Last, but not least, the landlord is specifically authorized to dispose of any abandoned property that has “no reasonable fair market value”.

The sale of certain items can be a bit more problematic. Even though the law allows them to be sold, mobile homes that are left behind must be addressed through contact with the Office of the State Treasurer. Vehicles that must be registered (cars, trucks, motorcycles, motor homes and travel trailers) are handled through the Bureau of Motor Vehicles. Boats, snowmobiles and ATVs are handled through the Bureau of Inland Fisheries & Wildlife.

To learn more log onto www.shankmanlegal.com or call Karen Cook @ 207.786.0311. You can also email her at kcook@shankmanlegal.com.



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