

It is so easy to get caught up in self-defeating thought patterns, and landlords will pounce to take advantage of any opportunity you present to them. While most of the articles on the Arizona Tenants Advocates website offer positive, proactive suggestions, sometimes the best advice is negative: Don't do it.

Admittedly, it is tough to police one's own ingrained habits. In landlord-tenant relations what seems like common sense often turns out to be a legal quagmire, with the frequent consequences of eviction, loss of personal property, monetary judgments, negative credit records, and debilitating fury at the injustice of having been tricked and abused. So, my suggestion is to check your ego at the door, contemplate before acting, investigate your circumstances and options, and, most of all, seek wisdom instead of relying on soothing words and assurances with which landlords will attempt to entrap you.

In that vein, below is assembled what we, over the years, have observed as erroneous conduct by tenants. Use it as a guidepost as you encounter events. Any time you find yourself in a situation, return to this article to see what might apply. I will make every attempt to update as we come across novel predicaments.

### **BE NICE, OR AT LEAST NICE ENOUGH.**

Time and again landlords provoke tenants to overstep the bounds of decency, inducing them to respond in kind to landlords' abusive conduct. As landlords hold the cards in Arizona, it is essential that tenants mind their Ps and Qs in all interactions. Many calls to our hotline speak to the risks of tenants raising their voices, pounding the counter, issuing profanities, and so on. From there it's a hop, skip and a jump to eviction court in defense of the allegations of threatening and intimidating, which type of case is very hard to defend and brings about a 24-hour lockout. Count yourself lucky if the worst consequence is a trespass exclusion from the apartment's office. But all this can be avoided by the exercise of self-control. Rather than indulging in the short-term satisfaction of an emotional outburst, just hold your horses and give Arizona Tenants Advocates a call for input and assistance.

### **VERBAL DON'T CUT IT.**

Never rely upon verbal agreements with your landlord. He or she may later deny it. Plus, most leases have clauses stating that the contract can only be modified by written agreement of the parties. So abide by the agreement, or get any changes agreed in writing signed by you and the landlord. Otherwise you will be in breach, and held accountable for that breach.

### **LEAVING ALLEGATIONS HANGING.**

If the landlord gives you written notice of some violation, don't leave it hanging. You must respond in writing, and make sure you have delivered the response in an irrefutable manner, and keep a copy of your response. Without a record of your having addressed the allegations, the landlord will likely proceed on the assumption that you failed to cure the breach.

### **GET UP AND GO? NO.**

When a landlord verbally tells you to just leave, don't. You will be in breach and held accountable, despite the fact that you are complying with the landlord's instructions. If the landlord gives you a written notice to either cure a breach or otherwise leave, by your leaving you will effectively be agreeing that you were in breach, and you will be held accountable. So, if you are not in the wrong, and you have substantiating evidence, be prepared to defend it in a court of law.

**BE REPRESENTED BY COUNSEL.**

The courts are very biased against renters. If you are engaged in court action, get a lawyer experienced in representing tenants. It is the only way you will get a word in edgewise. Plus, you must have a sufficient court record in the event that an appeal is necessary, and you will need an attorney to establish this.

**CLEAN, REPAIR AND DOCUMENT.**

When vacating, have the carpet professionally cleaned, and keep the receipt. Don't do it yourself. Clean the premises and repair all damages you caused (e.g. nail holes in walls, damaged doors, cracked window panes, etc.). Take detailed dated photographs and/or video of the condition in which you left the place. Don't make the mistake of using your phone for the photos, and keeping them there. Mobile telephones break, get lost or stolen. Instead, transfer your photographs to a compact disk, and make multiple copies stored in several locations. Keep your evidence for 7 years. If you don't want to bother with these things, then you will lack evidence to refute the landlord's future claims.

**DON'T OBSTRUCT.**

If the landlord gives you appropriate notice of intent to enter, for either inspection or repair, let him or her in. By blocking entry you may find yourself peremptorily evicted. Read our article, [Hey Landlord, My Home is My Castle](#).

**MISPLACED TRUST.**

The landlord's agents work for the landlord. You cannot trust them to back you up. So, for instance, the maintenance man (or exterminator or plumber or HVAC specialist) acknowledges a certain existing deficiency in your dwelling, but when push comes to shove he may later deny it. Get your own specialist to validate your position, and pay the person for the service. We once had a tenant bring in an air quality specialist to test for mold, but she never paid the person. So he later gave the report only to the landlord, with no copy to the tenant, and the tenant had no recourse to obtain the report because there was not a contractual relationship.

**ASK FOR, AND ATTEND, THE MOVE-OUT INSPECTION.**

It is imperative that you request, in writing, to be notified of when the move-out inspection will occur. Failure to do so will expose you to the landlord later making multitudinous claims that you left the premises filthy and damaged. Sometimes the landlord will provide such short notice of the inspection time that you are unable to attend. In contemplation of that possibility, have someone else available who can go in your place. Assign to that person a limited power-of-attorney for that purpose; he or she should have the original document on hand, which will prevent the landlord from excluding your representative. At the move-out inspection, either specifically refute any damages brought to your attention, or repeatedly offer to immediately correct the conditions, even if it means going to Home Depot to purchase parts. Never sign any documents that the landlord presents to you at the move-out inspection.

**RETURN THE KEYS.**

Time and again tenants, after moving out, have failed to return possession to the landlord. Until all the keys are returned, the landlord will hold you accountable for ongoing rent, and will be entitled to evict you. Do not return the keys through a door drop slot, or just leave in the premises. One of our cases involved a gentleman moving out of state, and he placed the keys in the refrigerator butter dish. Really!

**DEMAND THE DEPOSIT AND PREPAID RENT BACK.**

Do this even if you don't have any deposit. It puts a time constraint of 14 business days for the landlord to make claims against you. Otherwise, you may well find yourself having to respond to claims up to six years later, which is the statute of limitations for contract law. You may even find yourself having to mount a legal defense against those claims, which could have been avoided just by demanding the deposit back.

**ATTEND COURT.**

If you get behind in rent payment, that is a correctable offense. See [A.R.S. § 33-1368\(B\)](#). Should you pay off the amount due, make sure you obtain a receipt and bring it with you to the court hearing. Landlords will say that the hearing is cancelled, and that you can ignore the summons. That is a trap. The hearing may well proceed in your absence and there will be a default judgment against you. Afterwards, you will be precluded from submitting the facts to the court. So be sure to show up in court and present your evidence of payment, which should result in the case being dismissed.

**SLEEPING WITH THE ENEMY.**

If there is a conflict with your landlord, don't interact with the landlord's attorney. Remember, the lawyer is working for the landlord's interest, not yours. He or she will manipulate you to your disadvantage. The same applies to any court hearing, at which you may be ordered to attend a settlement conference. Any deal you make at such a conference will likely be harmful to you, and the lawyer will never properly explain what you are agreeing to. So expect a raw deal.

**PAY ALL THAT IS DUE.**

When you pay rent, be sure to pay all late fees due through the date of payment. The landlord can refuse a partial rent payment that does not include the late fees, and can return to you what you had tendered. Always make a photocopy of your payment instrument. Having a money order stub is insufficient evidence of payment tendered. Never leave rent through a drop slot, as the landlord will claim it was never received. If you have no other option for transmitting the payment, then use a process server to deliver it. A process server is an officer of the court, whose word is believed by the courts.

**NOT GIVING VACATE NOTICE.**

If your lease is ending, read the fine print on what happens at expiration. It might automatically renew, or become a month-to-month tenancy. You may, or may not, be required to give advance notice of intent to vacate or not renew. Make sure you meet the deadline, and keep a record of your notice.

**IF LEAVING, THEN LEAVE.**

Should you give your landlord notice of intent to vacate on a particular date, then you must leave unless you come to written agreement otherwise. The same applies if the landlord has given you proper notice to not renew. The landlord has relied upon your notice, and may well have re-let the premises to another, or may be counting on it being empty to make repairs. You could be evicted for wrongful holdover.

**LEAVING PROPERTY BEHIND.**

Upon expiration of the lease, after you vacate take all of your property with you, or you will lose it. The landlord is only obliged to hold your property if you have been evicted, or if you have

abandoned the premises. For those circumstances, see [A.R.S. §§ 33-1368 and 33-1370](#), respectively. Also, if you leave things behind, the landlord will likely bill you for their removal.

### **COPS AND POSTAL CLERKS KNOW NOTHING.**

Cops deal with criminal issues. Landlord-tenant is civil. And usually the twain don't meet. So if the police advise you about anything landlord-tenant, assume it is incorrect unless and until confirmed. As to postal mailing, stick with the tracking number that you originally selected and recorded as a notation on the letter. Sometimes the postal clerk will tell you there is a cheaper or different way of delivering the mailing. But then you will not have a tracking number that matches what is noted on the letter. That is exactly what happened with one of our cases that had otherwise successfully concluded. The postal clerk suggested he send something by Priority mail instead of the Express mailing we had arranged, in order to save about \$10. So he had no evidence that the keys were returned because the tracking number was different. The case went down the toilet.

### **AVOID THE UPS STORE.**

If you take a certified mailing to a UPS store, or some similar business, it could substantially delay the delivery. Plus, it will likely not track through the postal system. Plus, the store clerk may actually remove your original certified mailing receipt, instead replacing it with an entirely different receipt with a different tracking number. So, go only to a real United States Post Office, up to the counter.

### **PAY THE POSTAGE.**

Okay, I know this sounds stupid, but when you go to a post office, take the letter up to the counter and purchase postage. Get a receipt. We've had tenants just drop off letters, bereft of postage, in the mail pickup boxes. It doesn't work that way.

### **TEXTING, EMAILS AND OTHER STUPIDITIES.**

Communications by email and phone text will likely not be recognized by a court of law. We emphatically recommend that you limit your correspondences to delivery by certified mail or using a process server, which are irrefutable conveyance methods. As to complaints or work orders lodged on the landlord's Internet portal, once disputes arise management may well delete them, and the same applies to filling out forms at the management office. So be sure to keep a record of each submission, even if your only option is a print screen copy of the website page. However, to repeat, you are much better off going "legal" with a written complaint notice sent certified mail or via process server. See our article on [Giving and Receiving Notices](#).

### **DON'T OPEN RETURNED MAIL.**

Under [A.R.S. § 33-1313\(B\)](#) certified postal mailings are deemed received when actually received or five days from they were mailed, whichever occurs first. In other words, certified mailings are, by law, guaranteed delivered. This is great, especially if your notice is construed to be legally given despite that the intended landlord recipient has no idea of the contents. Even better, you can blame this on the landlord's bad faith or error. Therefore, should your certified letter that you mailed to your landlord be returned to you for any reason (including because the landlord refused it, did not claim it, or even relocated but failed to submit a forwarding address with the post office), leave the envelope sealed. This is because, if and when the delivery becomes a matter of contention in court, the best way to prove that the letter's contents are as you say, is for the judge to actually open up the letter during the legal proceeding. Otherwise, you will likely find yourself snatching defeat from the jaws of victory, as the court, entertaining

doubts about what was originally enclosed within the envelope, may well determine that notice was not proven to have been given. Additionally, warn your family and/or roommates not to open any returned mailings – this has actually happened! You already know what’s inside the letter, as you are the person who sent it and you have a copy of its contents (see next section, below), so don’t let absent-mindedness get the better of you.

### **KEEP A COPY.**

We had a tenant send out landlord-tenant notices we had prepared for her. But she neglected to make a photocopy of the documents, and therefore had no record of what was mailed. In her particular circumstance there was an opportunity to repeat delivery of the notices, but due to time constraints it was necessary to use a process server (which is more expensive). She refused to do this, and as a consequence her case was trashed.

### **AVOID BAD ADVICE.**

The best advice is the law itself, which is available through the [Links & Resources](#) section of this website. Second best, articles on this website. Worst advice? From your friends, or lawyers who are not landlord-tenant specialists. Time and again renters have come to us repeating advice given by others (even so-called tenant “counsellors”), and now, having heeded, they are in hot water with problems that have been exacerbated. Sometimes we can fix them. Most of the time... Suffice it to say, partial knowledge can be very dangerous.

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