

## **Know Your Rights Guidelines for Effective Tenancy Discussions**

All communications with your landlord/manager/agent must be in writing. If he or she contacts you verbally, explain that you conveyed your thoughts in writing in order to make a record of actions, and wish that he or she extends the same courtesy to you. Say nothing more.

Any unavoidable conversations with your landlord/agent must be corroborated by a written record. This will help substantiate your assertions and interpretation if the matter ever goes to court. To do so you should follow the conversation with a letter confirming in detail the contents of the conversation. After you sign your letter, then make a copy of it and mail the original (certified, return receipt requested) to the landlord/agent. Of course, be sure to first consult with ATA.

### **Correspondence**

Only send letters by certified, not regular, mail. This is because notices sent certified mail are deemed received five days after you mail them. Reference A.R.S. § 33-1313(B). If a letter sent by you to the landlord/agent is returned, DO NOT OPEN IT. You need to allow a judge that opportunity in order to confirm that what you said was sent in the letter actually is in there. If you open the letter you will significantly diminish your proof of having transmitted the notice or enclosures.

If time is critical, use a process server, who is authorized by the superior courts for performing service of process, such as a restraining orders or summons/complaints. This provides the benefit of credibility with the courts, should the delivery be challenged. Using the companies with which we have familiarity, this will cost upwards of \$42.50 during weekdays, with possible surcharges for immediate delivery or weekends. A process server will provide you with an affidavit attesting to the delivery. Tenants have often prevented evictions by delivering rent or notices by way of process server. (Delivery by messenger service, although cheaper, is not recommended, as such companies do not have the same credibility with the courts, and therefore will more likely necessitate bringing the messenger in to testify in court as to the delivery. )

It is better to avoid hand-delivery, because then you get into an argument as to who is lying and who is telling the truth. Should you need to hand-deliver, communications must be witnessed. Obtain the proper form from ATA which you should fill out when hand-delivering notices.

If you receive any response from your landlord/agent, contact ATA and see if you should set up an appointment or take other critical steps.

### **Rent**

Never pay rent by dropping it off through a mail or door slot. If you do so, what proof do you have that you made the payment? None.

When you pay rent, write on the memo line of your check exactly what it is for, e.g. "September 2019 rent only."

Always obtain a receipt for rent payment, or if that is refused, send it by certified mail, return receipt requested, with a cover letter. ATA can prepare a proper cover letter for you, or you can follow one of our model letters.

It is best to pay rent with a personal check. So either open a checking account if you can, or otherwise have a friend or family member write a check on your behalf. Not only do you have optimum control with a personal check, but also the funds are still in your possession until the check is negotiated and clears the account.

If payment by personal check is prohibited or unfeasible, a second best alternative is to use a bank check or cashiers check from a bank, for which you can issue a trace or stop payment somewhat quickly. But be aware this is still an insufficient option because payment generally can be stopped only if the bank/cashiers check is lost, stolen or destroyed.

Never pay rent with cash or with money orders from stores such as Circle K or Basha's, etc., unless, of course, you obtain a signed and dated receipt acknowledging payment from the landlord/agent. Without such a receipt, the landlord/agent will lie, saying rent was never received, and then attempt to evict you for nonpayment. And don't expect a justice court judge to accept your money order receipt as sufficient evidence of payment. In order to avoid eviction you will have to make a replacement payment and be out twice the amount you originally tendered. . . or you can kiss your tenancy good-bye. Meanwhile, it will likely take 6 weeks or longer to conclude a trace or stop-payment on such a money order.

## **Access**

Do not let the landlord/agent onto your premises unless proper notice has been provided to you, except, of course, when there is a legitimate emergency. If the landlord/agent attempts to gain access without notice or continually bothers you, call the police. You need documentation so you can obtain injunctive relief to stop further harassment.

On the other hand, if you complained of landlord maintenance noncompliances you must allow the landlord/agent access to conduct the repair, seeking access at a reasonable time. If the time sought is unreasonable, you can suggest an imminent alternative time, but create a record of having quickly done so by way of a faxed or hand-delivered communication. Bear in mind, a few years ago A.R.S. § 33-1343 was amended so that notice of entry is waived if the tenant lodges a maintenance or service request, which means that the landlord (or agent) can come in at any time without warning.

Be advised, as a general statement, your justifiable delay of landlord/ agent entry may negatively impact upon your ability to proceed with your remedy. Your unjustifiable obstruction of landlord/agent entry may find you evicted.

## **Do Things Right**

Many landlords will intentionally mislead tenants, and the law is designed to confuse tenants. So don't trust anyone or even your own judgment. Contact ATA first before proceeding with any additional actions, many of which require specific follow-up correspondence. If the telephone line is busy or nobody answers, leave a message and also keep trying. We do attempt to return calls, especially to members.

Understand that ATA runs on a shoestring budget, and our only counselor is a volunteer who operates under lots of pressure. For these reasons we are unable to handle activities for you unless you actually make an appointment and show up. Writing letters for you in your absence is out of the question.