

“As a Tenant, You can Break a Lease under the Following...”

BURNS AND BURNS, P.C. IS AN AV RATED LAW FIRM THAT REPRESENTS MULTI-GENERATIONAL FAMILIES AND BUSINESS OWNERS WITH THEIR ASSET PROTECTION, REAL ESTATE, AND ESTATE PLANNING NEEDS.

Tenant’s Rights to Terminate a Rental Agreement

Introduction

Under the Arizona Residential Landlord and Tenant Act (ARLTA), tenants are provided the ability to terminate their residential rental agreements under certain situations. If you are a tenant desirous of learning how to legally terminate a residential rental agreement, this article is for you as it discusses your rights under ARLTA.

Termination Based on the Terms of the Rental Agreement

A rental agreement can generally be terminated pursuant to the terms of the agreement itself. Therefore, if the rental agreement sets forth that it will terminate upon the occurrence of a particular event, the rental agreement will generally terminate upon the occurrence of that event. For example, if a rental agreement requires the landlord to maintain the swimming pool, the landlord’s failure to maintain the swimming pool could allow the tenant to terminate the rental agreement and move out.

Termination Based on Misinformation in the Rental Agreement

A tenant’s right to terminate the rental agreement and the manner in which the tenant must comply to properly terminate the rental agreement will depend on the

landlord’s actions. Set forth below are the tenant’s rights and procedures to terminate the rental agreement depending on the specific actions of the landlord.

Ten (10) Day Notice Requirement Before Terminating the Lease

Generally, if there is a material noncompliance by the landlord with respect to the rental agreement, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than ten (10) days after the landlord has received the notice, if the landlord does not remedy the breach within the ten (10) day period.

A material noncompliance includes the landlord providing false information that pertains to:

- 1) The availability of the unit (except when a holdover tenant is in illegal possession or in violation of the rental agreement);
- 2) The condition of the premises and any current services as represented by the landlord in writing and any representation regarding future services and any future changes regarding the condition of the premises; and

- 3) The provision of utility services and the designation of the party responsible for the payment of utility services.

Five (5) Day Notice Requirement Before Terminating the Lease

If the landlord fails to comply with the requirements of applicable building codes materially affecting health and safety, the tenant may deliver written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than five (5) days after the landlord's receipt of the notice, if the breach is not remedied within such five (5) day period.

WARNING: – A tenant may not terminate the rental agreement for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family or other person on the premises with the tenant's consent.

SECURITY DEPOSIT: – if the rental agreement is terminated, the landlord must return all of the tenant's security deposit that is recoverable by the tenant.

Termination Based on Blanks in the Rental Agreement

If a rental agreement contains blank spaces, it has not been fully executed. In Arizona, if the landlord and tenant have entered into a written rental agreement, the rental agreement must have all the blank spaces completed.

If the rental agreement contains blank spaces, the tenant may deliver a written notice to the landlord (specifying the acts and omissions constituting the breach) and that the rental agreement will terminate upon a date not less than ten (10) days after the

landlord receives the notice, if the breach is not remedied by the landlord within ten (10) days. Lastly, if the rental agreement is terminated, the landlord is obligated to return all of the security deposit that the tenant is entitled to recover. (See Residential Rental Agreement Requirements)

Termination Based on Domestic Violence

A tenant has the right to terminate a rental agreement if the tenant provides to the landlord written notice that the tenant is the victim of domestic violence as defined by Arizona law. Following the landlord's receipt of the written notice, the tenant's rights and obligations under the rental agreement are terminated and the tenant must vacate the dwelling. Upon this occurrence, the tenant will not be liable for future rent or incur any early termination penalties or fees. However, the tenant may still be liable for rent owed or paid through the date of the lease termination plus any previous obligation outstanding on the date of termination.

In order for the tenant to validly terminate the rental agreement, the tenant must provide the landlord with a written notice requesting release from the rental agreement with a mutually agreed to (between the landlord and tenant) release date within thirty (30) days. Further, the Request for Release Form must be accompanied by one of the following: 1) A copy of a protective order (which complies with Arizona law) issued to the tenant who is a victim of domestic violence; or 2) A copy of a written departmental report from a law enforcement agency stating the tenant notified the law enforcement agency and that the tenant was a victim of domestic violence. If a tenant provides the landlord with a copy of the protective order, the landlord may require a receipt or signed statement that the order of

BURNS AND BURNS, P.C.

Asset Protection, Estate Planning, and Real Estate Law
www.B-BLAW.COM – Phone: 602.264.3227 Fax: 602.274.0103

protection has been submitted to an authorized officer of the court for service.

In addition to the requirements set forth above, a tenant may only terminate the rental agreement if the actions, events or circumstances that resulted in the tenant being a victim of domestic violence occurred within the thirty (30) day period immediately preceding the written notice of termination to the landlord, unless waived by the landlord.

Despite the tenant's compliance with the filing requirements, the landlord is entitled to keep any prepaid rent for the term in which the lease was terminated. However, the tenant may be entitled to a return of the security deposit in accordance with Arizona law.

Rental Agreements with Multiple Tenants

If there are multiple tenants who are parties to a rental agreement that has been terminated for domestic violence, the rental agreement for those tenants also terminates. Further, the tenants who are not the victim of domestic violence, excluding the person who caused the domestic violence, may also be released from any financial obligations due under the previously existing rental agreement. Lastly, in the event the rental agreement is terminated, tenants are permitted to enter into a new lease with the landlord if the tenants meet all the landlord's current application requirements.

Landlord's Obligations to Tenant Victims of Domestic Violence

A tenant who is a victim of domestic violence may require the landlord to install a new lock to the tenant's dwelling so long as the tenant pays for the cost of installing the new lock. Specifically, a landlord fulfills

their obligations to install a new lock by either: 1) Rekeying the lock if the lock is in good working condition; or 2) Replacing the entire locking mechanism with a locking mechanism of equal or better quality than the lock being replaced. Further, the landlord has the right to retain a copy of the key that opens the new lock. Generally, the landlord has the right to refuse access to the dwelling unit to any tenant if the tenant is the person named in an order of protection or related departmental report unless a law enforcement officer escorts the tenant into and out of the dwelling.

Consequences of Falsifying a Domestic Violence Report

If a tenant who terminated their lease for domestic violence reasons is later convicted of falsely filing a departmental report or order of protection for domestic violence, the convicted tenant will be liable to the landlord for treble (3x) damages.

About the Author **Scott F. Burns, Esq.**

Scott F. Burns, Esq. is an Arizona attorney whose clientele include professional athletes, business owners, and families desirous of protecting their personal and professional legacies through the use of asset protection strategies, estate planning and business consulting.

For Additional Information
www.B-BLAW.com

Material presented herein are for informational purposes only and are not intended to constitute legal advice, to be a legal opinion or create an attorney client relationship for the reader or any specific person. Estate and Tax planning is fact specific and requires consultation with a tax or legal advisor before undertaking any course of action.

BURNS AND BURNS, P.C.

Asset Protection, Estate Planning, and Real Estate Law
www.B-BLAW.COM – Phone: 602.264.3227 Fax: 602.274.0103