



HOMEOWNERS ASSOCIATION OF PHILADELPHIA HAPCO

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SENATE URBAN AFFAIRS and HOUSING COMMITTEE

TESTIMONY OF

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In Comment upon: Senate Bill 48 Session of 2013

Property owners across the state regularly experience a difficult circumstance: tenants abandon a dwelling unit without notice or a forwarding address, leaving items of personal property behind. Those items can consist of discarded furniture, clothing, sealed trash bags of unknown contents, food in a refrigerator, and more. An unanswered question for years has been the responsibility of the property owner for those discarded items. May the owner discard whatever the tenant leaves behind? Is there a requirement that the owner hold the property in safekeeping, however worthless and abandoned the discarded items may seem to be?

In 2012 the legislature attempted to address this issue of significance to rental property owners, but unfortunately did not enact a solution to the actual problem. In an attempt to find a solution, the legislature was requested to enact a law clearly delineating what should be done with the abandoned personal property left behind by the tenant. An amendment to the Landlord and Tenant Act was enacted. The 2012 enactment, however, deals only with two classes of tenants:

- 1) responsible and law abiding tenants who leave a dwelling unit, and properly provide a forwarding address,
- 2) tenants who have completely ignored their lease responsibilities, and been evicted by Court Order.



Unfortunately, the law as enacted, dealing with the two poles of the best tenants and the worst, fails to address the actual problem: those tenants who depart and disappear without any notice as to their whereabouts, leaving things behind. Is it trash? Is it valuable? Will the tenant come back to get it? Can it be thrown away? Can it be moved? Unfortunately, the law as enacted answers none of these questions, except where the tenant has provided a forwarding address, or been forcibly evicted by the Sheriff. The law does not apply when the tenant simply leaves without written notice.

The law as enacted was well intentioned but unnecessary; where a good tenant leaves a forwarding address, they generally take all their property with them; and, having properly left a forwarding address, they can be contacted if anything is inadvertently left behind. Where a tenant disregards their legal obligations under a lease, and refuses to pay rent, and a sheriff has to evict them, the legal machinery is already invoked- at significant expense- to deal with the problem.

What is lacking in the law is a solution to the actual problem: the tenant who just walks out, leaving junk behind, usually owing rent, already having caused the owner expense and lost time (taxes and license fees and repair bills and insurance and management fees take no breaks whether a tenant pays rent or not). What is to be done in the real world circumstance where the tenant vacates the property, *without notice of any kind and without providing a forwarding address?*

The advocates for the tenants who disappear without a word would urge that every such case should proceed to a full blown eviction. A filing with the District Justice; paying the cost of filing; legal fees; waiting for a hearing; paying again and filing for the sheriff to come out; more delay; and then, even after going through the time and expense of the court case and the sheriff eviction, to then have to then hold this discarded stuff for up to another 30 days after that. All this effort and expense on behalf of a tenant who did not have the courtesy to leave a forwarding address, as required by the Landlord and Tenant Act, and all for articles which are generally abandoned and simply intended to be discarded. The tenant figures that the landlord will just have to deal with the trash and discarded items. This is unfair to the landlord.



The cost of providing good housing is overwhelming. Blight results from owners who are taxed and financially overburdened out of existence. SB 48 is an opportunity for the legislature to correct this problem, with fairness to all concerned, while showing an understanding of the hard tasks which face your constituents who only seek to be good landlords, and provide decent housing at reasonable cost.

The amendment under consideration, Senator Williams' SB 48, remedies this problem. It provides a fair method of insuring that good taxpaying property owners are able to survive in this industry and provide decent housing. The Bill is fair to the tenants who simply refuse to act as good citizens, and contact the owner when they intend to leave the house or apartment they have rented. SB 48 would amend the law enacted last year to provide an answer to the tenant who vacates with no notice leaving unwanted things behind.

The relevant sections of SB 48 appear as follows:

Section 505.1. Disposition of Abandoned Personal Property.--(a)

At the time a tenant has relinquished possession of the real property, the tenant shall remove from the premises all items of the tenant's personal property. For the purposes of this section, a tenant shall be deemed to have relinquished possession of the premises upon any of the following:

(1) Execution of an order of possession in favor of the landlord.

(2) If the tenant has physically vacated the premises, removal of substantially all personal property and the providing of a forwarding address or written notice stating that the tenant has vacated the premises.

(3) If the tenant has physically vacated, abandoned and surrendered the premises without notice or providing a forwarding address and the landlord has posted notice on the premises and mailed notice to the tenant advising the tenant of the tenant's rights under subsection (b.1). The notice under this paragraph shall be:

(i) sent by regular mail to the formerly leased premises; or

(ii) by personal delivery to the tenant.

Adding clause (3) to existing Section 505.1 (a) as proposed by SB 48 solves the problem.



Existing Clause (1) deals with the *evicted* tenant, who in order to comply with their contractual responsibilities needed a Complaint and a Judgment for Possession and Order of Possession and a Sheriff's eviction.

Existing Clause (2) deals with the *upstanding renter*, who has the courtesy to fulfill the legal responsibility to provide a forwarding address.

New clause (3) will deal with the circumstance at issue today: the tenant who clearly left the place, and clearly left things behind, and should be notified, without the need for extensive and expensive court proceedings, that if they want whatever they left behind, they need to come and get it.

Without clause (3) above the owner of a property is forced to go to the significant expenditure and burden on the court system and Sheriff's office, by filing for a formal eviction, going to court, filing for a writ of possession, and Sheriff's physical presence at the property. Leaving this void in the law forces the owner to expend resources unnecessarily, and to cause the legal system to do the same, when common sense and common understanding recognizes when a tenant has disappeared without intention to return.

The amendment therefore carefully provides that where a tenant has physically vacated, abandoned, and surrendered the premises without notice or providing a forwarding address, the tenant will be deemed to have abandoned their items of personal property which were left behind when they moved out. Please be aware that "abandoned and surrendered" has a meaning in Pennsylvania case law. There are numerous cases construing the phrase.

SB 48 would further amend the existing law to give tenants a longer time to provide notice of their intention to return and take anything they left behind. The tenant who is evicted, or provides a forwarding address, must respond within 10 days of their intent to retrieve their personal property. The amendment, for a tenant who has disappeared, gives them 25 days. That is certainly long enough for a tenant who has departed leaving things behind to step forward and claim their property, if in fact they intend to do so. Most often, the things are simply left behind for the landlord to deal with.



The tenant then has up to an additional 20 days to retrieve the property. Surely it is fair and reasonable to expect a tenant who has abandoned and surrendered a dwelling unit to come get their property within 45 days!

(b.1) Upon relinquishment of the premises under subsection (a) (3) and the acceptance of possession of the real property by the landlord, the tenant shall have twenty-five days to contact the landlord regarding the tenant's intent to remove any personal property remaining on the premises. If the intent is conveyed to the landlord, the personal property shall be retained by the landlord at a site of the landlord's choosing for twenty days. If no communication is made to the landlord within twenty-five days, the property may be disposed of at the end of the twenty-five days at the discretion of the landlord.

Finally, SB 48 super strengthens the rights of tenants, holding an owner who wrongfully withholds property against the provisions of the Act doubly liable for having done so. Should any landlord act without compliance with all of the notices, or otherwise violate the law, the new amendment will double the damages due to the tenant. We think that is very severe. Yet in seeking a solution to the problem we have outlined, we recognize this strong protection for the tenant and understand that the punitive action against the owner is the assurance of SB 48 for the rights of the tenant.

(g) If there is acceptance of the tenant's personal property by the landlord in violation of this section, then the landlord shall be liable to the tenant in an action of trespass, to recover double the value of the personal property taken, together with the costs of suit.

HAPCO, the Homeowner's Association of Philadelphia, representing thousands of Pennsylvania property owners, commends the bill under consideration, and urges enactment of SB 48 as proposed. Thank you for your consideration.