

WHEN LIFE GETS LEGAL

HOW TO BE A GOOD LANDLORD

July 10, 2024
12pm - 1pm

Session Notes

Below is a summary of the topics and items discussed on the July 10th session of When Life Gets Legal, How to Be a Good Landlord.

A recording of this session is available for viewing at www.LRseminars.com

*The information presented in this webinar is provided by Attorney Paul Vangellow for informational purposes only. Attorney Vangellow is licensed to practice law in the state of Virginia, and the details shared are based on his understanding of the laws within that jurisdiction. The webinar content is intended to be general in nature and may not reflect the laws of other states or regions. Attendees are advised to consult with a qualified legal professional in their respective jurisdiction for advice tailored to their specific circumstances.

SESSION TOPICS

- Tenant's Assertion
- Commercial Landlord
- Hold-Over Tenancy
- Four Corners Doctrine
- Residential Landlord
- Squatter

What essential steps should a landlord take before providing a lease to a potential tenant to ensure success and minimize liabilities?

- **Conduct a Thorough Background or Credit Check:** This ensures the future tenant is capable of paying rent on time.
- **Obtain the Tenant's Social Security Number:** This allows the landlord to locate and identify the tenant if they move or fail to pay rent.
- **Collect Work Information and Address:** Verifying the tenant's employment and current address helps confirm their stability and reliability.
 - **Contact Previous Landlords:** Reaching out to previous landlords provides detailed insights into the tenant's past rental experiences, including any damages caused, payment history, and communication effectiveness. This step helps gauge the tenant's reliability and suitability for the property.

What are the key steps a landlord should take to ensure successful tenancy and comply with legal requirements when creating a lease agreement?

1. **Ensuring Tenant Capability:** Conduct a credit check to verify the tenant can pay the agreed rent on time. Obtain the tenant's Social Security Number to locate and identify them if needed.
2. **Vetting Process:** Contact previous landlords to gather detailed information about the tenant's past rental experiences, payment history, and communication effectiveness.
3. **Written Lease Agreement:** Always have a written lease agreement to refer back to in case of future incidents. Ensure the lease agreement complies with the jurisdiction's regulations, including prohibitions on excessive late fees, rent increases, and provisional notices.
4. **Jurisdiction Compliance:** For example, in Virginia, a notice to vacate requires a minimum of 90 days, and rent increases require a 90-day notice and can only occur once per year, adhering to guidelines set by the Consumer Price Index.
5. **Four Corners Doctrine:** Include all terms and side agreements within the lease document, as anything not included cannot be enforced against the tenant.
6. **Inspection Clauses:** Incorporate walk-in and walk-out inspection clauses. Take photos of any pre-existing damages before the tenant moves in and conduct a move-out inspection to compare the property's condition. Photos are preferred over videos for documentation purposes, as they are easier to submit and review.

What are the two major categories of landlord obligations, and what specific responsibilities fall under each category?

Landlord obligations are divided into two major categories: functional and habitability. For **functional** operations, the landlord must ensure that essential amenities such as heating, plumbing, and refrigeration are in working order. Air conditioning is not required unless the property is more than a single-family home. The lease agreement should clearly outline maintenance responsibilities; for instance, while the landlord provides an HVAC system, the tenant is responsible for changing the air filters. In terms of **habitability**, the landlord must ensure the property is free from infestations like insects, rodents, or mold. An infestation is defined by a significant number of pests; a single cockroach does not constitute an infestation, but hundreds of pests do. By addressing these obligations, landlords help maintain a safe and functional living environment for tenants.

Why is it important for landlords to keep thorough documentation of communications with tenants, and what are the best practices for doing so?

It is crucial for landlords to keep thorough documentation of all communications with tenants to ensure readiness in case of disputes. Best practices include preferring email over text messaging, as email provides a clear, time-stamped record of communications, while text messages, though admissible in court, may lack organization and formality. Landlords should also follow up verbal communications with written responses, since verbal communications are generally not admissible unless recorded. Additionally, documenting services performed in response to tenant complaints is important, as it demonstrates responsiveness and helps defend against potential claims. By following these practices, landlords can protect themselves in legal situations and maintain a comprehensive record of interactions with tenants.

What is a tenant's assertion case, and what are the key requirements and potential outcomes for such a case?

A tenant's assertion case is a legal action where the tenant claims the landlord has breached the lease, making the property uninhabitable. The tenant must provide reasonable notice to the landlord before filing and document the issue, as they bear the burden of proof. If the tenant is found in the wrong, they must pay all owed rent. If the landlord is at fault, the tenant can sue for up to three times the damages, with the Department of Housing and Community Affairs ensuring compliance. The issue must be significant, such as extensive mold, not minor problems, for the case to be deemed valid.

What steps must a landlord take if damages exceed the security deposit after a tenant moves out, and what should be done if the tenant refuses to pay additional charges?

If damages exceed the security deposit, the landlord must itemize all deductions and provide this breakdown to the tenant within 45 days of their move-out. Any additional charges beyond the security deposit must also be communicated to the tenant in writing within this period, preferably through a written notice rather than an email. If the tenant refuses to pay these additional charges, the landlord should file a warrant in debt with the general district court, detailing the amount owed. The landlord must also provide receipts to the court showing the repairs conducted to restore the property to a habitable state. Repairs should be completed before filing the lawsuit.

What are the main differences between commercial and residential landlords, and why is it important for landlords with multiple properties to consider forming an LLC?

Commercial landlords typically manage four or more dwelling units, such as apartment complexes, and face less stringent but more numerous obligations compared to residential landlords, who usually oversee one or two locations like condos or duplexes. The primary difference lies in the scale and complexity of the properties managed. For landlords with multiple properties, forming a Limited Liability Company (LLC) is important for liability purposes, as it helps protect personal assets from potential legal claims related to the properties.

What is the difference between a hold-over tenancy and a squatter, and what actions can a landlord take in each situation?

A squatter is someone who trespasses onto a property and attempts to live there without any legal right or permission. In this case, the property owner can call the police for trespassing since there is no lease agreement. On the other hand, a hold-over tenant is someone who initially had permission to live on the property, but the lease has expired without renewal. If a hold-over tenant remains on the property, the landlord cannot simply call the police; instead, they must take court action to remove the tenant by filing for an unlawful detainer. This legal process is necessary to officially evict the tenant who overstays their lease.

About our speaker: JOHN KIDWELL THE LAW OFFICES OF KIDWELL & KENT



John Kidwell has been the owner and managing partner of The Law Offices of Kidwell & Kent since 2004, with offices in Fairfax, Virginia, and Rockville, Maryland. Mr. Kidwell also owns and operates his in-firm commercial and residential real estate title company, Old Dominion Title Services, Inc., and is a licensed financial securities and registered representative.

In 2010, Mr. Kidwell partnered with Long & Foster Realtors to develop a subsidiary, Platinum Group Services, to lay the legal framework for a multistate short sale prosecution apparatus that pioneered the successful negotiation of real estate short sales across the country, saving thousands of families from foreclosure.

Coming Up Next Month

**Navigating Credit
Disputes & Repair**

AUGUST 14TH
12pm - 1pm

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