

No. 2014-167

AN ACT

HB 1714

Amending the act of April 6, 1951 (P.L.69, No.20), entitled "An act relating to the rights, obligations and liabilities of landlord and tenant and of parties dealing with them and amending, revising, changing and consolidating the law relating thereto," further providing for disposition of abandoned personal property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 505.1 of the act of April 6, 1951 (P.L.69, No.20), known as The Landlord and Tenant Act of 1951, added July 5, 2012 (P.L.1091, No.129), is amended to read:

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.

(b) Upon relinquishment of the premises under subsection (a) and the acceptance of possession of the real property by the landlord, the tenant shall have ten 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 thirty days. If no communication is made to the landlord within ten days, the property may be disposed of at the end of the ten days at the discretion of the landlord.

(c) If personal property remains on the premises following the relinquishment of the premises by the tenant, the following shall apply:

(1) If there is acceptance of the real property by the landlord under subsection (a)(1) and the writ or order of possession contained notice of the provisions under subsection (b), the landlord shall not be required to provide further notice to the tenant.

(2) If there is acceptance of the real property by the landlord under subsection (a)(2) and the lease or lease addendum contains notice of the provisions under subsection (b), the landlord shall be required to provide written notice to the tenant that personal property remains on the premises and must be retrieved by the tenant. The notice under this paragraph shall give the tenant ten days from the date of postmark of the notice to notify the landlord that the tenant will be retrieving the personal property. 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 thirty days from the date of postmark of the notice. If no communication is made to the landlord within ten days, the property may be disposed of at the end of the ten days at the discretion of the landlord. The notice shall also include a telephone number and address where the landlord can be contacted and shall identify the location where such property can be retrieved. The notice shall be:

(i) sent by regular mail to the tenant's forwarding address, if provided, or, if no forwarding address is provided, then to the formerly leased premises; or

(ii) by personal delivery to the tenant.

(3) If the lease or lease addendum does not contain notice of the provisions under subsection (b), the landlord, in addition to complying with the requirements of paragraph (2), shall send notice to any emergency contact that may have been provided by the tenant in a lease agreement.

(4) Any notice required under this subsection shall also contain information that the tenant shall be required to pay costs related to the removal or storage of property retrieved by the tenant after ten days under subsection (f).

(d) At all times between the acceptance of the premises by the landlord and the expiration of the ten- or thirty-day periods, the landlord shall exercise ordinary care with regard to any personal property that the former tenant has left in or on the real property.

(e) After the appropriate time period under subsection (d) has expired, the landlord shall have no further responsibility to the former tenant with regard to the personal property and may, in the landlord's discretion, dispose of the property. If the personal property is sold and proceeds exceed any outstanding obligations owed to the landlord, the proceeds shall be forwarded to the tenant by certified mail. If no forwarding address has been provided to the landlord by the former tenant, the landlord shall hold the proceeds for thirty days and, if unclaimed, may retain the proceeds.

(f) If the landlord has issued the notice to the tenant under subsection (c), the landlord may choose to store the tenant's personal property at another location within reasonable proximity to the leased premises. If the landlord elects to have the property stored at another location, the landlord may remove the property from the premises by any means reasonably calculated to safeguard the property for the time period required under this section. A tenant shall not be required to pay any costs related to the removal or storage of the property by the landlord if the former tenant retrieves the personal property within ten days of the date of postmark of the notice. If the former tenant retrieves the personal property after ten days of the date of the postmark of notice but before thirty days, the tenant shall be required to pay any reasonable and actual costs related to the removal or storage of the property by the landlord for that time period.] *Upon the termination of a lease or relinquishment of possession of real property, a tenant shall remove all personal property from the leased or formerly leased premises. Abandoned personal property remaining on the premises may be*

disposed of at the discretion of the landlord, subject to the provisions of this section.

(b) Personal property remaining on the premises may be deemed abandoned if any of the following apply:

(1) The tenant has vacated the unit following the termination of a written lease.

(2) An eviction order or order for possession in favor of the landlord has been entered and the tenant has vacated the unit and removed substantially all personal property.

(3) An eviction order or order for possession in favor of the landlord has been executed.

(4) The tenant has provided the landlord with written notice of a forwarding address and has vacated the unit and removed substantially all personal property.

(5) The tenant has vacated the unit without communicating an intent to return, the rent is more than fifteen days past due and, subsequent to those events, the landlord has posted notice of the tenant's rights regarding the property.

(c) Where the tenant is deceased and leaves personal property remaining in the demised premises, the provisions of this act shall not apply. The disposition of personal property in the case of a decedent shall be governed by the provisions of 20 Pa.C.S. §§ 711(1) (relating to mandatory exercise of jurisdiction through orphans' court division in general) and 3392 (relating to classification and order of payment) and other relevant provisions of 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

(d) Prior to removing or disposing of abandoned property, the landlord must provide written notice of the tenant's rights regarding the property. The tenant shall have ten days from the postmark date of the notice to retrieve the property or to request that the property be stored for an additional period not exceeding thirty days from the date of the notice. If the tenant so requests, the landlord must retain or store the property for up to thirty days from the date of the notice. Storage will be provided at a place of the landlord's choosing and the tenant shall be responsible for costs. At all times, the landlord shall exercise ordinary care in handling and securing the tenant's property and shall make the property reasonably available for purposes of retrieval.

(e) Notice shall be sent by first class mail to the tenant at the address of the leased premises and to any forwarding address provided by the tenant, including any address provided for emergency purposes. The notice shall be in substantially the following form:

Personal property remaining at (address) is now considered to have been abandoned. Within ten days of the postmark date of this notice, you must retrieve any items you wish to keep or contact your landlord at (telephone number and address) to request that the property be retained or stored. If requested, storage will be provided for up to thirty days from the postmark date of this notice at a place of your landlord's choosing, and you will be responsible for costs of storage.

(f) Under no circumstances may a landlord dispose of or otherwise exercise control over personal property remaining upon inhabited premises without the express permission of the tenant. If the conditions under which personal property may be deemed abandoned no longer exist, the landlord shall have no right to dispose of or otherwise exercise control over the property.

(g) Except with respect to the provisions of subsection (h), in the event of a conflict between the provisions of this section and the terms of a written lease, the terms of the lease shall control.

(h) Notwithstanding any provision of this section to the contrary, if a landlord proceeding under the provisions of subsection (b)(3) has actual knowledge or is notified of a protection from abuse order entered for the protection of the tenant or a member of the tenant's immediate family, the landlord shall refrain from disposing of or otherwise exercising control over the personal property of the tenant for thirty days from the date of the notice. If requested, storage shall be provided for up to thirty days from the date of the request.

(i) A landlord that violates the provisions of this section shall be subject to treble damages, reasonable attorney fees and court costs.

Section 2. This act shall take effect in 60 days.

APPROVED—The 22nd day of October, A.D. 2014

TOM CORBETT