




STATE OF RHODE ISLAND  
OFFICE OF THE ATTORNEY GENERAL

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**AG 2020-01-A**

TO: Chiefs of Police   
FROM: Peter F. Neronha, Attorney General  
DATE: October 23, 2020  
SUBJECT: **Landlord-Tenant Disputes and Law Enforcement**

As we have learned over the past several months, the COVID-19 pandemic presents an unprecedented threat to the health, safety, and well-being of our communities. There is no question that law enforcement has been on the front lines of this crisis. I remain grateful for everything you have done and for your continued partnership during these challenging times.

On April 6, 2020, this Office issued guidance to law enforcement officials on landlord-tenant disputes. That guidance primarily concerned how law enforcement should respond to instances of self-help evictions—cases in which landlords illegally remove (or attempt to remove) a tenant from leased premises without going through the required court process. In self-help eviction cases, a landlord may (or may attempt to) forcibly remove a tenant, change the tenant's locks, remove the tenant's property, or reduce or discontinue essential services like water or electricity in order to force tenants to move out. This conduct is unlawful.

In the months immediately following the issuance of the guidance, community organizations reported that instances of self-help evictions by landlords had declined. We also received reports of law enforcement helping tenants whose landlords attempted self-help evictions, including a case in which an officer required a landlord to turn a tenant's electricity back on. I commend you for your efforts to protect Rhode Island families during such a difficult and pivotal period.

Unfortunately, in recent weeks this Office has, once again, received reports of an increasing number of self-help evictions. A recent federal Centers for Disease Control and Prevention (CDC) order that, in many cases, makes it illegal for landlords to evict tenants until at

least December 31, 2020 may be contributing to this misconduct.<sup>1</sup> Some landlords, trying to circumvent the CDC Order, may resort to self-help eviction tactics.

These tactics are unlawful. With the COVID-19 pandemic continuing to heighten the dangers and public health consequences of housing instability, we can all agree that preventing or prosecuting self-help evictions must remain a law enforcement priority.

In the event that illegal self-help eviction tactics are attempted or used by a landlord, this Office is prepared to prosecute these matters in the District Court if that is a municipality's preference. Case-specific questions can be directed to Stephen Dambruch, Criminal Chief, at 274-4400, extension 2503. You are also always welcome to contact me directly on my cell phone or at the office at extension 2338.

Cases may also arise in which a tenant alleges non-criminal conduct by a landlord, but the tenant's housing may nevertheless be in jeopardy. In such cases, officers should be directed to refer the tenant to Rhode Island Legal Services (401-274-2652) and/or the Rhode Island Center for Justice (401-491-1101) for help with a civil legal claim.

Thank you again for your attention to this pressing issue and for your commitment to protecting the safety of all Rhode Islanders during the unprecedented challenges posed by the COVID-19 pandemic. An updated version of the guidance is enclosed for your reference.

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<sup>1</sup> The CDC Order lays out the circumstances under which certain tenants may not be evicted and is available at: <https://www.federalregister.gov/documents/2020/09/04/2020-19654/temporary-halt-in-residential-evictions-to-prevent-the-further-spread-of-covid-19>.

## **GUIDANCE FOR LAW ENFORCEMENT OFFICERS ON LANDLORD-TENANT DISPUTES**

### **Are self-help evictions, where the landlord attempts to take matters into his or her own hands, unlawful?**

Yes. Under the Residential Landlord and Tenant Act, the landlord may not attempt to recover or take possession of a rental unit outside the court process. The landlord is further prohibited from shutting off or causing the interruption of the tenant's heat, water, electric, and gas services. R.I.G.L. § 34-18-44.

### **Is there a criminal statute that applies to unlawful entry?**

An unlawful entry may constitute a willful trespass under R.I.G.L. § 11-44-26, which is a misdemeanor punishable by a fine not to exceed \$1,000 and a prison term not to exceed one year. If the landlord enters or remains in a rental unit after being asked not to enter or to leave by the tenant, this may constitute a willful trespass, provided that none of the circumstances permitting entry without the tenant's consent apply.

You should use your discretion and consult your city or town solicitor or this office in deciding whether to charge a landlord with willful trespass. In many cases, by the time police arrive, the violation will have already occurred, and the landlord will no longer be present on the property. If no damage was done to the tenant's possessions and you believe that the landlord did not understand the law, it may be sufficient to inform the landlord of the law and warn him or her against future violations. Charges should be considered for a landlord who ignores warnings and repeatedly engages in willful trespass.

### **Are there civil or criminal statutes that apply if the landlord attempts to remove the tenant's property?**

If, during a self-help eviction, the landlord maliciously damages or causes the tenant's property to be destroyed, this may constitute vandalism under R.I.G.L. § 11-44-1, which is a misdemeanor punishable by a fine not to exceed \$1,000 and a prison term not to exceed one year. If the landlord willfully breaks a lamp or window, that is also a criminal offense punishable by a \$200 fine. R.I. Gen. Laws §11-44-14.

### **When is entry by the landlord to a rental unit unlawful?**

Under the Residential Landlord and Tenant Act, the landlord may not enter the tenant's unit without the tenant's consent, except in limited circumstances.

These limited circumstances are:

- In cases of emergency
- With a court order
- During any absence of the tenant in excess of 7 days, if reasonably necessary for the protection of the property.



- If the tenant has failed to maintain the rental unit in a manner materially affecting health and safety and (1) an emergency repair or replacement is necessary or (2) 20 days after written notice from the landlord
- The tenant has abandoned or surrendered the premises

Entry by the landlord, without the tenant's consent, for any other purpose is unlawful.

**Are there other limitations on landlord entry?**

Yes. In addition to needing the tenant's consent, for the landlord's entry to be lawful the landlord must:

- Provide notice to the tenant: the landlord must give the tenant at least 2-days' notice of his or her intent to enter, except in case of emergency or unless it is impracticable to do so.
- Enter at reasonable hours: the landlord may only enter the unit at reasonable times.
- Avoid harassing the tenant: the landlord cannot abuse the right of entry or use the right of entry to harass the tenant.

Even if the landlord gives reasonable notice, the tenant must still consent to the entry. However, a tenant may not unreasonably withhold his/her consent for the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors. R.I.G.L. § 34-18-26. R.I.G.L § 34-18-26.

**If the tenant won't let the landlord in, what is the landlord supposed to do?**

The Residential Landlord and Tenant Act requires the tenant not to withhold consent unreasonably. If the tenant unreasonably refuses to let the landlord in, the landlord may go to court to get a court order and may have grounds to evict the tenant for violation of the lease or the Act. R.I.G.L. §§34-18-26, 34-18-5.

**Are there other ways to stop a self-help eviction?**

Yes. If the landlord attempts to remove the tenant without a court order, the tenant may seek a court order enjoining or stopping the landlord. R.I.G.L. § 34-18-44. In addition to informing a landlord that entry on to a tenant's property to accomplish a self-help eviction may be criminal, you can advise the tenant to contact Rhode Island Legal Services ((401) 274-2652.) or the Center for Justice (401-491-1101).

## Appendix of Relevant Laws

### **Residential Landlord and Tenant Act**

#### **§ 34-18-44. Self-help recovery of possession prohibited.**

A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of heat, running water, hot water, electric, gas, or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this chapter.

#### **§ 34-18-26. Access.**

(a) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors.

(b) A landlord may enter the dwelling unit without consent of the tenant in case of emergency, or, during any absence of the tenant in excess of seven (7) days, if reasonably necessary for the protection of the property.

(c) A landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or unless it is impracticable to do so, the landlord shall give the tenant at least two (2) days' notice of his or her intent to enter and may enter only at reasonable times.

(d) A landlord has no other right of access except:

(1) Pursuant to court order;

(2) As permitted by § 34-18-39; or

(3) Unless the tenant has abandoned or surrendered the premises.

#### **§ 34-18-5. Administration of remedies – Enforcement.**

(a) The remedies provided by this chapter shall be so administered that an aggrieved party may recover appropriate damages and injunctive relief, including temporary restraining orders, as set forth in § 34-18-6. The aggrieved party has a duty to mitigate damages.

(b) Any right or obligation declared by this chapter is enforceable by action unless the provision declaring it specifies a different and limited effect.

### **Criminal Offenses**

#### **§ 11-44-26. Willful trespass – Remaining on land after warning – Exemption for tenants holding over.**

(a) Every person who willfully trespasses or, having no legitimate purpose for his or her presence, remains upon the land of another or upon the premises or curtilage of the domicile of any person legally entitled to the possession of that domicile, after having been forbidden to do so by the owner of the land or the owner's duly authorized agent or a person legally entitled to

the possession of the premises, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or imprisonment for a term not exceeding one year, or both.

(b) This section shall not apply to tenants or occupants of residential premises who, having rightfully entered the premises at the commencement of the tenancy or occupancy, remain after that tenancy or occupancy has been or is alleged to have been terminated. The owner or landlord of the premises may recover possession only through appropriate civil proceedings.

(c) Where the provisions of The Domestic Violence Prevention Act, chapter 29 of title 12, are applicable, the penalties for violation of this section shall also include the penalties as provided in § 12-29-5.

§ 11-44-1. Vandalism – Obstruction of lawful pursuits.

(a) Every person who shall willfully and maliciously or mischievously injure or destroy or write upon, paint, or otherwise deface the property of another, or obstruct the use of the property of another, or obstruct another in the prosecution of his or her lawful business or pursuits, in any manner, the punishment of which is not specifically provided for by statute, shall be guilty of a misdemeanor and shall be fined not exceeding one thousand dollars (\$1,000) and/or be imprisoned not exceeding one year, and shall be liable to make restitution for the injury or damage caused. Every person convicted of a first offense under this section shall be required to perform up to one hundred (100) hours of public community restitution work, and for a second or subsequent conviction shall be required to perform up to two hundred (200) hours of public community restitution work. Provided, further that every person who shall willfully and maliciously or mischievously injure or destroy or write upon, paint or otherwise deface government property, or obstruct the use of that property, shall be punished in accordance with this statute. Jurisdiction for matters involving government property shall be concurrent with the district court or the respective city or town police or municipal court.

(b) Where the provisions of The Domestic Violence Prevention Act, chapter 29 of title 12, are applicable, the penalties for violation of this section shall also include the penalties as provided in § 12-29-5.