

Tenant has some obligations, too

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The previous column in this series dealt with the obligations of the landlord and the remedies of the tenant. This one deals with the other side of the coin: The obligations of the tenant and the remedies of the landlord.

Readers are reminded that the scope of these articles is general and specific legal questions should be addressed to an attorney.

A primary responsibility of the tenant is to pay the rent agreed upon when it becomes due. The due date

Two recent decisions of the Oregon Court of Appeals shed additional light on provisions of the law discussed in previous columns.

With regard to the law in general, the court has held that damages for mental distress may not be recovered under the law.

Speaking to other areas of the law, we called attention in the past article to the fact that under certain conditions the tenant could terminate the lease after giving the landlord written notice and could also recover damages. The court now has held that damages under this particular section of the law can be recovered only if the tenant has given the landlord written notice. In the same case, the court addressed the issue of retaliatory eviction -- also discussed in the last column. The court held that, even though there was evidence that the eviction in the case it had under consideration was in retaliation for the tenant's having reported building code violations, the eviction nevertheless was permissible because the tenant previously had defaulted on rental payments.

The upshot of this last case would seem to be that tenants should be very careful in the procedures they follow against landlords and they should "keep their noses clean" if they are going to be successful in such actions.

is determined by the rental agreement and the landlord does not have to demand payment each time for it to become due.

Comparable to the landlord's duty to provide habitable premises is the tenant's duty to maintain them after he takes possession. The tenant must use the premises in a reasonable manner, taking into consideration the purposes for which they were designed and intended. He must keep the premises clean and dispose of trash and garbage. He must use the plumbing, electrical, heating and other such facilities in a reasonable manner. The tenant must not knowingly or negligently damage or remove any

part of the premises or knowingly permit another person to do so. Finally, the tenant must conduct himself, and require his guests to conduct themselves, in such a manner as not to disturb the peace of his neighbors. (This last requirement is particularly relevant to apartment house dwellers.)

The landlord may make and enforce rules related to the tenant's occupancy. Such rules may be to promote the convenience, safety and welfare of tenants in general; to preserve the property from abuse, and to make a fair distribution of services and facilities, such as swimming pools and recreation rooms, for the benefit of tenants in general. (Again, some of these provisions are of particular importance to apartment dwellers.) The rules, however, must be reasonably related to their purpose, apply to all the

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tenants fairly, must not be to avoid the landlord's obligations and must be sufficiently clear to inform the tenant of his obligations. Tenants must have notice of the rules. Finally, a rule made after the rental agreement has been made, which results in a substantial modification of the tenant's bargain, is not valid unless the tenant consents in writing.

Although a rental occupant's "home is his castle," and he is entitled to be free from indiscriminate entry by the landlord, the tenant may not reasonably refuse to let the landlord enter the dwelling under certain circumstances, namely:

- To inspect the premises;
- To make necessary or agreed upon repairs, decorations, alterations or improvements, and
- To show the dwelling to prospective tenants, purchasers, workmen, etc.

The landlord, however, is required, whenever practicable, to give the tenant at least 24 hours' notice of his intent to enter and he must make his entry at a reasonable time. Of course, in the case of an emergency the landlord may enter without the consent of the tenant.

The landlord-tenant law permits, but does not require, the rental agreement to require the tenant to notify the landlord of any anticipated extended absences from the dwelling of more than seven days.

Finally, a tenant may not use the rented dwelling for any purpose other than as a residence unless agreed upon with the landlord.

The landlord's remedies against a tenant are quite similar to those of the tenant against the landlord,

which were discussed in the last "Consumer Notes" column. If the tenant breaches the rental agreement or fails to maintain the premises in a manner materially affecting health and safety, the landlord may give the tenant 30 days' written notice terminating the agreement and give the tenant 14 days to correct the situation. If substantially the same situation recurs within six months, the landlord may terminate the agreement upon 10 days' written notice. The landlord also may go to court to recover damages or to obtain an injunction compelling the tenant to comply with the agreement.

When the rent is 10 days overdue, the landlord may terminate the agreement upon 24 hours' written notice.

The landlord also may terminate the agreement upon 24 hours' written notice if the tenant, or a guest of his, irreparably endangers the landlord or other tenants or if the tenant, or his guest, irreparably damages or threatens immediate damage to the dwelling.

Finally, if the tenant fails to give notice of an extended absence, when required to do so by the rental agreement as noted above, the landlord may bring legal action to recover actual money damages, if any, and after the tenant has been gone for more than seven days, he may enter the premises as may be reasonably necessary.

There are some specific limitations on the landlord's remedies. If the tenant abandons the dwelling, the landlord may mitigate damages, that is, diminish the amount of his loss, by trying to find a new tenant promptly. The landlord may waive his right to terminate the agreement by accepting rent from a tenant in default or by disregarding some action by the tenant which is not in accord with the rental agreement. The statute specifically abolishes the landlord's old common law right to hold the tenant's household goods for nonpayment of rent. Landlord liens or security interests in tenant's household goods established before the October 5, 1973, effective date of the law still are enforceable, however. A procedure is provided in the law for the landlord to dispose of property abandoned by the tenant, but the landlord must give the proceeds of the sale of such property, after subtracting the costs of the sale, to the tenant. Finally, readers should refer to the "Consumer Notes" column in the previous issue of The OSEA News (June 29) for a discussion of the prohibition of the landlord taking retaliatory action against the tenant in certain circumstances.

NEXT: Special provisions governing mobile home parks

Advisors applauded

(Continued from page 5)

LERC offer courses for credit. Not until there is a clear demand, he added.

For the moment, Via wants high quality and useful courses for union reps and workers in their union and the community. As examples, he mentioned one on the "Role of Women" and another on "Labor and the Media." The course on women "brought together thoughtful discussion with recent relevant research," Via said. The labor and media conference "addressed an old problem that still is without a good answer," he said. "Much of the media doesn't know how to relate to labor and labor needs to sharpen its skills (in dealing with the media)."

Saying that an "informed electorate is a preferred one," Via would have LERC (and union members) address community problems from taxation to economic development, environmental protection and support for public education.

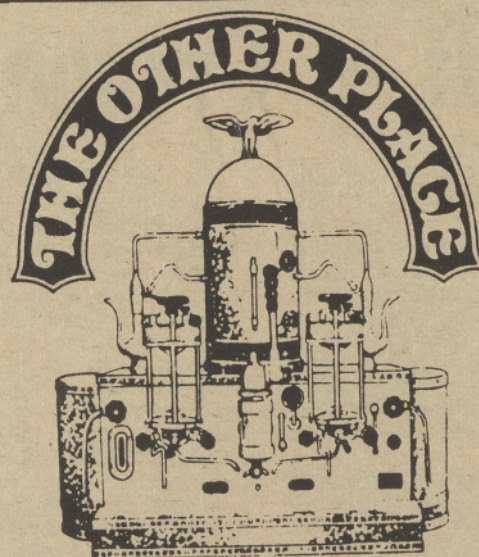
Part of LERC's mission is research and that probably has been less evident to the many union members, officers and staffers who have attended one or more of LERC's courses. LERC has

completed some research projects in the past year. (One on women in the work force is described on this page.)

Via intends to meet with representatives of labor soon to determine what ways the center can be helpful. LERC already is using faculty members from other departments and schools in the university in its research activities. Some research will be a direct function of what labor wants but it also will range widely while relating to work life.

In a speech recently, Via applauded the advisory committee which helps set the direction for LERC. (Earlier OSEA lobbyist Bill Wyatt, and now Education and Research Director John Lund are OSEA's representatives on this committee.) "Any self-respecting labor college will have an advisory committee of union representatives," Via said. "Most meet quarterly at the invitation of the staff; Oregon's meets monthly and has much to say about what is discussed. From a national perspective, the advisory committee has been extraordinarily high in the quantity and quality of its discussion."

LERC got off to a blazing start. Via will be looked to bring the Labor Education and Research Center into its full potential to help the working man and woman in Oregon.



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