



Title 6. Property and Land – Chapter 610

EVICTION and TERMINATION

Rule No. 1 – Disposal of Abandoned Personal Property

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1.1. Purpose and Delegation

1.1-1. *Purpose.* The purpose of this rule is to provide additional information related to the storage and disposal of personal property pursuant to a lease or rental agreement.

1.1-2. *Authority.* The Eviction and Termination law delegated joint rulemaking authority to the Land Commission and the Comprehensive Housing Division to further govern the disposition of personal property in relation to residential contracts and to the Land Commission and the Division of Land Management to further govern the disposition of personal property in relation to agricultural and business contracts.

1.2. Adoption, Amendment and Repeal

1.2-1. This rule was jointly adopted by the Comprehensive Housing Division, the Division of Land Management and the Land Commission in accordance with the procedures of the Administrative Rulemaking law.

1.2-2. This rule may be amended or repealed by the joint approval of the Comprehensive Housing Division, the Division of Land Management and the Land Commission pursuant to the procedures set out in the Administrative Rulemaking law.

1.2-3. Should a provision of this rule or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this rule which are considered to have legal force without the invalid portions.

1.2-4. In the event of a conflict between a provision of this rule and a provision of another rule, internal policy, procedure, or other regulation; the provisions of this rule control.

1.2-5. This rule supersedes all prior rules, regulations, internal policies or other requirements relating to the Eviction and Termination law.

1.3. Definitions

1.3-1. This section governs the definitions of words and phrases used within this rule. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “Comprehensive Housing Division” means the entity responsible for housing matters specifically related to rental agreements as defined by Oneida Business Committee Resolution.¹

(b) “Contract” means either a lease document pursuant to the Leasing law or a rental agreement pursuant to the Landlord-Tenant law.

(c) “Eviction” means to expel an occupant from the premises.

(d) “Nation” means the Oneida Nation.

¹ See BC Resolution 10-12-16-B providing that for purposes of this law, the Comprehensive Housing Division means the Division of Land Management for general residential contracts, the Oneida Housing Authority for income-based residential contracts and Elder Services for residential contracts through the Elder Services program.

(e) "Occupant" means the person granted the right to use or occupy a premises pursuant to a lease or rental agreement entered into in accordance with the Leasing law or Landlord-Tenant law respectively.

(f) "Owner" means the Nation in its capacity as a lessor as defined in the Leasing law or as a landlord as defined in the Landlord-Tenant law.

(g) "Premises" means the property covered by a contract, including not only the real property and fixtures, but also any personal property furnished by the owner pursuant to a contract.

1.4. Storage and Disposal of Personal Property

1.4-1. *Designated Period for Removal of Personal Property.* The initial period designated for removal of personal property following a contract termination is five (5) business days, as provided in section 610.6-1 of the Eviction and Termination law. The initial designated period may be extended in the owner's discretion to a maximum period of fifteen (15) business days from the date of contract termination. The only circumstance under which the timeframe for removal of personal property may be extended beyond the maximum period is in the event of the death of a tenant based on a written agreement executed in the owner's discretion. During the designated period for the removal of personal property:

(a) The owner shall store all personal property within the reclaimed premises and grant access to the former occupant for purposes of removal of personal property.

(b) The only access the owner may grant to the premises is as follows:

(1) To the former occupant for purposes of removal of personal property;

(2) To the owner's maintenance staff for emergency maintenance checks and repairs as may be deemed necessary in the owner's discretion; and/or

(3) To the owner's administrative staff for purposes of assessment of the condition of the premise.

(c) Former occupants may access the reclaimed premises by contacting the owner to schedule an access appointment. Access appointments are limited to business days from 8:00 a.m. to 2:30 p.m., provided that the owner may provide access appointments outside of these limited time periods in its discretion.

1.4-2. *Expiration of the Designated Period for Removal of Personal Property.* Upon the expiration of the designated period for removal of personal property, all personal property remaining in the premises subject to the terminated contract becomes abandoned property. The owner shall dispose of all abandoned property as trash, provided that in the owner's discretion, the owner may donate items for which the owner determines the donation to be safe, sanitary and appropriate.

(a) Any program wishing to donate abandoned personal property shall create a standard operating procedure designating the donation location and any other required details.

(b) Should the owner, in the process of clearing abandoned property, discover items which may be culturally significant items, the owner shall contact the Cultural Heritage Department for review of the items. Upon review, the Cultural Heritage Department may take possession of any items it deems culturally significant.

End.

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