

What to Do If a Tenant Abandons the Property

Even when both parties enter into a lease with the best of intentions, sometimes, things don't always go according to plan. One of the things that can happen during a lease is the tenant abandoning the property before the lease term has ended. Abandonment of the property occurs when the tenant leaves the property before the lease ends.

This leaves you with the questions:

What happens when a tenant leaves the property?

What can a landlord do if their property is abandoned?

We spoke to [Denver attorney](#) Kyle Bachus of Bachus & Schanker, about what to do when a tenant abandons the property before the end of the lease.

What is Abandonment of a Lease?

Lease abandonment is when the tenant leaves the property and breaks the contract before the end of the term of the agreement. For abandonment of a lease to occur, the tenant must vacate the premises. They must also show an intent not to return to the property. The tenant's behavior is what determines if they intend to end the lease. Abandonment in a lease is essentially when a tenant gives up on the contract and the property.

Abandonment of a Property in Colorado – Do You Have to Evict?



[Colorado lease laws](#) are landlord friendly in that there is no requirement to go to court to retake an abandoned property. In other words, if the tenant simply leaves, the landlord can enter the property and reclaim it. As the landlord, you don't have to go to court to get an order of eviction.

Be careful! In almost all other circumstances, you do need to go to court before you reclaim a property. If you genuinely have an abandoned property situation, you can reclaim the property without going to court. However, you want to make sure that you're correct in your belief that the property has been abandoned.

Colorado Law for Abandoned Property and Broken Lease

The Colorado laws regarding abandoned property and broken lease agreements is the [Colorado Warranty of Habitability Act](#). Generally, the act makes it illegal to take possession of a leased property without a court order.

However, the Colorado Warranty of Habitability act spells out one important exception. The exception is when a tenant abandons the property. Under the Colorado Warranty of Habitability Act, the landlord may enter and reclaim an abandoned property without needing to go to court.

Colorado Law for Abandoned Property and Broken Leases

Once the landlord knows that they can reclaim an abandoned property without legal process, the question becomes how the landlord has confirmed that the property is abandoned. In Colorado, there isn't one rule that determines whether a property meets the definition of abandonment for immediate re-entry. Instead, the landlord must provide evidence of the intent of the tenant. Types of evidence can include:

- The tenant providing formal notice of intent to abandon the property
- Returning the keys to the landlord
- Substantial removal of personal items by the tenant
- Removal of beds and other big pieces of furniture
- Extended absence from the property with unpaid rent
- The landlord not being able to get a hold of the tenant
- Utilities and phone service being shut off
- Food missing or spoiling
- Vehicles missing
- Neighbors that haven't seen or heard from the tenant
- Mail piling up and unattended
- Clothing and kitchen items missing

The standard for whether a property has been abandoned is what a reasonable person would believe. If a reasonable person, and more importantly the courts would believe that a property was abandoned based on the evidence provided, then a landlord may recover the property.. Be sure to try to look at the situation objectively.

How Long Does Someone Have to Be Gone to Be Considered Moved Out?

In general, there's no specific length of time that someone

has to be missing to be considered moved out. Instead, it depends on the person's intent and whether their actions demonstrate that they abandoned the property.

There may be state laws that say a person must be behind on rent or that a certain period of time must pass. However, no one rule applies everywhere for how long a person has to be gone to be considered moved out.

Colorado Length of Time for Abandonment of a Lease

In Colorado, there's no specific length of time for abandonment of a lease. As a landlord, there's no specific amount of time that you have to go without hearing from the tenant. In addition, there's no specific amount for the tenant to be behind on rent. It all depends on the totality of the particular circumstances.

Proving Abandonment – Statements From the Tenant

One of the things that might come into play when proving abandonment is statements by the tenant. Statements that are in writing, like in email or text, are easy for the court to evaluate. However, comments that the tenant makes orally are a bit more complicated.

Yes, oral statements about intent to abandon a property are admissible in court. However, if that's all you have to go on to prove abandonment of the property, and the tenant challenges the abandonment, it can leave you in a tricky situation. You can be left in a he-said, she-said situation, and the court doesn't know who to believe. In other words, it's not wise to rely on statements from the tenant alone when it comes to justifying reclaiming a property. Instead, be sure

to have additional evidence like the examples mentioned above in case you need to justify your actions to the court.

Is the Tenant Responsible for the Rest of the Rent If They Abandon the Property?

Yes, the tenant is responsible for the rest of the rent if they abandon the property. As a landlord, you can seek to recover payment from the tenant. However, you also have the duty to mitigate damages by finding a new renter as soon as possible.

In addition, there may be practical challenges with collecting what you're owed like the tenant's ability to pay or even locating them in the first place. How to proceed when it comes to unpaid rent depends on the exact circumstances, the amount of your losses, and the chances of recovering payment.

About Kyle Bachus



Kyle opened Bachus & Schanker, with little more than a tiny, rented office and a lot of determination. Starting with less than \$15,000, their business has grown into one of the largest, most [well respected law firms in Denver, Colorado](#).

Kyle and his partner Darin Schanker are committed to understanding the circumstances confronting their clients, and ensuring that responsible parties are held accountable for damages they have caused.