

Getting Your Things Back After You Move

IMPORTANT: This is an excerpt from the 2016 *Landlord-Tenant Law in Oregon* booklet. The booklet is available on the Oregon Law Help website at <http://www.OregonLawHelp.org>. All Resources referred to below are available on this website. This information is for general educational use only. **It is not a substitute for the advice of an attorney. If you have a specific legal question, you should contact an attorney.** The information included here is accurate as of March 2016. Please remember that the law is always changing through the actions of the courts, the legislature, and agencies.

TIME LIMIT WARNING: Under state and federal laws there are time limits for taking action to enforce your rights. Most lawsuits related to the rental agreement and the Oregon Residential Landlord and Tenant Act must be filed (started in court) within one year of the incident. There may be other — shorter — time limits that apply in other cases. *Ask a lawyer about the time limits that could apply in your situation.*

What happens if I leave my things in my place after I leave or have been evicted?

Usually, your landlord stores your things in the unit or nearby in a storage area or basement. The landlord must give or mail to you a written notice of abandoned property that asks you to pick up your things. This notice must tell you if the landlord thinks that the value of the property you left is under \$500 and he or she plans to throw it away if you don't pick it up. This notice must be sent to the address where you rented from that landlord, any post office box that you have that the landlord knows about, and to your most recent forwarding address. You will have 5 days to respond to the notice if it was handed to you and 8 days to respond if the notice was mailed to you. You can respond verbally (for example, by phone) or in writing. You must contact the landlord during the 5 or 8 day period and you must pick up your things no longer than 15 days after that or your landlord will dispose of them. **ORS 90.425.**

Take everything with you when you leave if you can. If you cannot, at least box your things to avoid breakage and loss. Ask your landlord if you can move your boxes into the basement or other storage area to reduce the landlord's work and reduce the chance of breakage. Give the landlord a forwarding address. Tell the landlord when you will return to pick up your things.

Sometimes a landlord will pay the sheriff to have your things removed by a moving company. If this happens, you must file a Challenge to Garnishment with the court and sheriff to recover your things. (See the resource 'Filing a Challenge to Garnishment and Exempt Wages, Money, & Property' on OregonLawHelp.org.) It is unusual for the landlord to use a moving company because it is very expensive.

Special rules apply if you had to move out of a recreational vehicle, houseboat, or mobile home/ manufactured home that you own or are buying and that you left where it was when you moved. Call a lawyer for more information.

Can my landlord hold my property and sell it for storage costs, court costs, or unpaid rent?

If you were evicted by a court order, the landlord must allow you to pick up your things as described above in the question 'What happens if I leave my things in my place after I leave or have been evicted?' without forcing you to pay any storage costs. The landlord can add the boxing and storage costs to the eviction judgment, if the landlord has a judgment, or can sue you for the costs of removal

and storage. **ORS 90.425. If you moved out after receiving a termination notice but before the landlord got a court order evicting you,** your landlord can require you to pay for storage costs before giving you your things.

If you missed the 5 or 8 day notice deadline and the landlord gave the proper notice, then the landlord can either throw out your things if they are worth under \$500 or sell your things at a reasonable sale to pay for the notice, boxing, storage, sale and unpaid rent if they are worth over \$500. Call a lawyer if this happens to you to make certain that the notice was proper and the sale was reasonable. The landlord may throw out or otherwise get rid of property that cannot be sold for a profit. The landlord cannot keep the property for personal use.

If your landlord paid the sheriff to have your things moved by a moving company after eviction, then the sheriff will sell your things, unless you file a Challenge to Garnishment. It is very unusual for the landlord to use the sheriff to remove your things because it is expensive for the landlord. See the resource 'Filing a Challenge to Garnishment and Exempt Wages, Money, & Property' for information on how to file a Challenge to Garnishment.

What can I do if the landlord won't return my property?

If the landlord will not give back your property during the notice or extension period under the abandoned property notice, there are forms available at the courthouse that you can use to ask the court for an order requiring the landlord to return your things. **In this type of case, the landlord loses the right to sue for unpaid rent and some kinds of other damages if he or she wrongfully refuses to return your property.** If the landlord takes and keeps a tenant's property without taking the steps listed above in the question '*What happens if I leave my things in my place after I leave or have been evicted?*', a tenant may also ask the court for twice the amount of the actual damages. See the **Time Limit Warning** at the beginning of this document.

What is exempt property?

Exempt property is property (including income and bank accounts) which the law says cannot be taken from you under any circumstances. See the OregonLawHelp.org resource 'Filing a Challenge to Garnishment and Exempt Wages, Money, & Property' for a list of exempt property.

If this kind of property is taken, you must file a Challenge to Garnishment with the court and ask the court to set a hearing to get it back. See the resource 'Filing a Challenge to Garnishment and Exempt Wages, Money, & Property'.

You may need to use a Challenge to Garnishment if your landlord tries to garnish your bank account or wages, or asks the sheriff to take your property. This situation may come up if the landlord won in the eviction case and got a judgment for costs or attorney fees or sued you in another case for unpaid rent or damage and won.