



May 2015

Can a Tenant Break the Lease After a Robbery?

Written by **Laura Agadoni**

Your tenant just called in a panic, telling you she was robbed. She no longer feels safe living in your rental property, wants to break her lease, and she wants her full security deposit back.

What should you do?

Robbery of Their Unit

The answer is not cut and dry, and generally speaking, the answer depends on who and what caused the robbery.

If you, as the landlord, failed to provide a secure unit for your tenant, then you could be held responsible for it.

However, keep in mind that your duty and liability to your tenants is limited to what is reasonably foreseeable and only what is reasonable for a person in your position.

Let's go over some details on how to protect yourself as well as your tenants.

CAUSE OF ROBBERY	BREAK THE LEASE?	WHY?
Doors or window didn't lock properly.	Probably	Landlord failed to provide a secure premise.
Tenant didn't lock the doors.	No	Tenant acted negligent.
Tenant lost a key or gave one to a friend.	No	If there is no sign of forced entry, then the missing key must have been used.
Tenant lost a key, informed you, and you didn't change the locks.	Probably	Landlord acted negligent.
Your tenant is involved in some crime/ drug-related activity, which followed him home.	No	The tenant's behavior made him a target, provided the home was secure.
Your tenant's home was randomly selected, and it was a forced entry.	No	A landlord isn't responsible for the actions of others.

Replace Broken Windows and Doors Immediately

If the robbery was a break-in (forced entry) and the door or windows were broken, you need to fix those immediately – like within 24 hours, preferably before nightfall.

You can't expect a tenant to live in a place that can't be secured.

Lack of security goes against the implied warranty of habitability: you must provide a safe place for your tenants to live. If you don't fix a broken door or window within a short period of time, you are not providing a safe and secure premise, and your tenant could have grounds to break the lease.

Must you Provide an Alarm System?

You don't have to provide your tenants with an alarm system, but you might want to consider using or installing one, particularly if you want to keep the tenant.

It's also a good idea to provide as much security as is warranted for the area. A good rule of thumb is to determine what other people in the vicinity do. If you provide comparable security to what the neighbors have, what you are doing would be considered reasonable.

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Robbery at the Neighbor's House

What if Your Tenant "Feels" Unsafe?

Maybe there was a break-in at a neighbor's house or in someone else's unit in the building, and you don't provide an alarm system or bars on the windows. (Window bars aren't even allowed in some jurisdictions.)

What if your tenant now feels unsafe and wants to get out of the lease?

In this case, your tenant **probably cannot** get out of his lease just because he feels afraid.

Emotions are relative, and subjective. The fear of danger doesn't actually mean that danger exists.

If the situation is unbearable for your tenant but you have provided adequate security, he can move, but he's still liable for paying the rent until his lease ends or until you rent to a new tenant.

This situation is not ideal, particularly if the tenant told you he felt unsafe. He might have asked to get out of the lease early or requested that you increase security. If you refuse both requests and the tenant does leave early, he might sue you under the implied warranty of habitability doctrine.

Your tenant may or may not receive any money from the lawsuit – it's really up to the judge.

Alternatively, if you can work with a tenant, especially one who has been a good tenant and is now truly scared, it might benefit you to try.

After all, it's best to have a tenant who really wants to live in the property, not one who feels obligated to.

Sometimes there is value in starting over with a new tenant.

Crime in the Area

What if There Has Been Crime in the Area?

If crime is getting worse in the neighborhood and you're not increasing security, you might have a problem.

States vary on how they interpret just how safe you need to make your property. Generally, if crime such as burglary, vandalism and violence in the area increases, you should increase your security if possible. For example, if the porch light is broken, you should fix it. If you don't have deadbolts, you should add them.

It's in your best interest to make your rental property as secure as possible. If your tenant were injured from a criminal, your tenant might sue you. The court might order you to pay damages to your tenant, particularly if this was not the first case of a break-in at your rental property.

What You Can Do?

Meet or exceed safety laws. Make sure you are doing all you can to make your rental property safe for your tenants. You at least to meet the safety

laws in your jurisdiction. You might need to provide deadbolts, peepholes and window locks. You can exceed safety laws if you like.

Secure known break-in areas. If criminals have been breaking into nearby properties through the windows, for example, make sure your windows are secure by having window alarms installed or by putting on bars if you can.

Speak with your tenants about security best practices. Tell your tenants the security measures you have taken, and let them know how to use the security system if there is one.

Address tenant complaints. Make sure you address tenant complaints, such as putting on a deadbolt lock if you just have an old front door lock, and fix any security measures you have that are broken.

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For more information contact:

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Legislative Planning Season Begins

By **Michael Steffen**, ORHA President

It is once again time to start planning for the next round of landlord tenant coalition negotiations which will begin this summer. Our legislative director, Jim Straub, is asking all associations to poll their members and provide a list of law changes that they would like to see implemented. One list from each association is preferred. We would like to have the information submitted to the office by the end of June so that Jim has time to compile the information for our board legislative planning session which will be held in July. Maren will be sending a legislative planning form to all association contact members before the end of May to assist your preparations. Please contact the office, Jim or myself directly if you have any questions on the process.

Remember that the coalition negotiations provide us with a great opportunity to favorably impact the laws that directly affect us and our businesses. So, let's take advantage of our collective strength and give Jim the information he needs to work on our behalf. Send your requests as soon as is practical and join us in Eugene on July 18th for the legislative planning session. We need your input!



Oregon Legislative Update

By **Jim Straub**, ORHA Legislative Director

The Landlord-Tenant Coalition bill, Senate Bill 390, passed out of the House Human Services and Housing Committee on May 18th on a unanimous vote. Representatives Duane Stark and Carla Piluso will carry the bill on the House floor, we anticipate sometime during the week of May 25th. There were no questions or discussion at either the public hearing or the work session in the House committee, except that Rep. Paul Evans of Monmouth expressed his interest in getting involved in the coalition's work for next session. Stay tuned for future updates as the bill continues to work its way through the Oregon Legislature.

This means it's now time to start looking towards the next legislative session. Members and local associations should begin identifying areas which they believe should be addressed by the coalition in future legislative sessions. Begin gathering your facts and affirmative arguments now in anticipation of our next ORHA legislative planning meeting on July 18th in Eugene. Personal stories are especially helpful when approaching the legislature. Have you been affected by a law that needs changed? Are you facing a situation that needs a new law to be addressed? Your stories really make a difference when we negotiate on these issues. I look forward to continuing our important legislative work in future coalition meetings.

Next ORHA
Board Meeting &
Legislative Planning
Session
July 18, 2015
Eugene

FORMS HIGHLIGHT:

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