

## REGISTERING A RENTAL PROPERTY

With limitless things a landlord must know about renting properties, I am often asked what is the first thing that a landlord must do to rent a property. Of course, a landlord should use a lease with certain minimum provisions, and maintain the property, but a landlord must first register the property as a rental with the county assessor. The purpose of the registration is for the county to properly tax properties and collect money. The registration is important as well, however, as the failure to register a property provides a tenant with cause to terminate their lease.

A.R.S. § 33-1902(C) provides that if a property is not registered, the tenant “shall deliver to the landlord ... a written ten day notice to comply. The notice shall be delivered by certified mail, return receipt requested or by hand delivery. If the owner does not comply with this section within ten days after receipt of the notice, the tenant may terminate the rental agreement and the landlord shall return all prepaid rent to the tenant. Security deposits shall be returned in accordance with section 33-1321(D).”

This statute is interesting because it deals with an issue (tax liability) which is between the owner and the city/state, but it gives the tenant a means to break their lease. It's also interesting because it does not fall within the Arizona Residential Landlord Tenant Act (A.R.S. § 33-1301) and therefore many landlords are unaware of it. Not knowing the registration requirement, however, is no defense to a claim that the landlord failed to register a property. A failure to register ten days after notification, is a per se violation of the statute, meaning the tenant can automatically terminate their lease, move out and request their deposits back. It is irrelevant that the landlord was unaware of the statute.

There are certain tenant's advocates that use this provision to permit tenants to legally break their lease. For example, a tenant may send a list of problems with the rental and ask the landlord to fix the problems within 10 days. Among the list of problems, the tenant may include the reference to A.R.S. § 33-1902, and require the landlord to register the property. Even if the landlord fixes all of the problems with the unit itself, but fails to timely register the property, the tenant can terminate the lease and ask for their deposits back. While the tenant is liable for any damage they caused to the unit, they are not liable for the rent through the remainder of the lease and they are entitled to any prepaid rent.

To register a property, a landlord should go to the County Assessor's office, complete the registration form and pay the fee (currently \$10 in Maricopa). If a landlord simply mails in the registration, they are risking the possibility that it doesn't get registered within the 10 days or that the county doesn't receive the document. I have seen a tenant win a lawsuit over a security deposit where the owner mailed the registration but it wasn't received by the county within 10 days. The landlord was held liable for not returning the tenant's deposit.

Therefore, when an owner buys a new rental property, or a manager takes over management of a new property, the first thing they should do is properly register it. Additionally, they should keep a copy of the registration that the county provides. This document will show when the home was first registered to avoid any claims in the future. Also, when ownership or management changes or moves, the registration must be updated.

