

FLORIDA RESIDENTIAL TENANCIES: THE FIVE COMMANDMENTS

C. MARTIN LAWYER, III (All rights reserved. January 2000)

1. PUT IT IN WRITING !

- a. The lease.** See § 83.56(1,2).
- b. The security deposit notices.** § 83.49.
- c. The landlord's name and address and changes thereto.** § 83.50.
- d. When the tenant has a problem.**

§ 83.56(1) notices as to landlord's violations of § 83.51 or violations of the rental agreement.

- e. When the landlord has a problem.**

- (1) § 83.56(3) notice for non-payment of rent.

- (2) § 83.56(2) notices as to tenant's violations of § 83.52, other provisions of the rental agreement, or reasonable rules or regulations.

- (a) No opportunity to cure for serious or repeated non-serious violations. §83.56(2)(a).

- (b) Opportunity to cure for first-time non-serious violations. § 83.56(2)(b).

- f. When the tenant goes on vacation.** § 83.59(3)(c).

- g. When either party wants to terminate the tenancy.**

- (1) The lease. See a., d., e. above.

- (2) No lease provision or no lease. § 83.57.

- h. When the landlord wants to increase the rent or other charges *or* change the provisions of the rental agreement.**

- (1) The lease.

- (2) § 83.57.

- (3) But, see maxim # 4 below !

2. **BE PREPARED TO PAY YOUR OPPONENT'S ATTORNEY'S FEE IF YOU LITIGATE AND LOSE.**

- a. **§ 83.48.** Permissive as to all cases.
- b. **§ 83.49(3)(c).** Mandatory as to security deposit cases.

3. **KNOW THE SECURITY DEPOSIT STATUTE.** § 83.49.

4. **LANDLORD, DON'T RETALIATE.** § 83.64.

NOTE WELL: This prohibition is not limited to evictions, but also includes raising the rent or decreasing services.

5. **LANDLORD, USE THE COURT TO EVICT.**

a. **The unpleasant consequences of "self-help" evictions.**

§ 83.67 (Prohibited Practices).

NOTE: The landlord's "presumption" of § 83.59(3)(c) abandonment may be found to be a § 83.67(2) prohibited practice.

b. **The slow but sure consequences of § 83.59(3)(a).**

- (1) Facially defective notice precludes jurisdiction.
- (2) The tenant may contest any fact contained in the notice if the tenant has paid all rent due into the Court Registry.
- (3) The landlord may get a money judgment. § 83.625.
- (4) The landlord will get possession 24 hours after the writ is posted.
- (5) The landlord may, or may not, be lawfully able to take possession of the tenant's personal property remaining on the premises at the end of the 24-hour period. § 713.691; Art. X, § 4, Florida Constitution. *Seymour v. Adams*, 638 So.2d 1044 (Fla. 5th DCA 1994).