



THE  
**LANDLORD ASSOCIATION**  
OF PENNSYLVANIA

(610)867-8940 or Toll Free (888)778-2173

October 2005  
Edition



**“Happy Halloween!”**

## The Good, The Bad, and the Ugly

### **The Good**

Our newsletter is now available online at our website, [www.landlordassocpa.com](http://www.landlordassocpa.com). It is listed under the “Member’s Only” page.

### **EVICTED TENANTS**

Have judgments applied to your evicted tenant’s credit report for the cost of **\$10.00!** Send us a **copy of the judgment** and the following information by fax or mail:

- Evictee’s Social Security Number
- Evictee’s Date of Birth
- Evictee’s Move-In Date and Date of First Delinquency

A member of LAPA recently received her payment after she marked her tenant’s credit report!

For more information, please call or e-mail the office at:

Toll Free: 888-778-2173

E-mail: [Jennifer@cbalv.com](mailto:Jennifer@cbalv.com)

### **The Bad**

**Winter is coming!** To avoid those high heating costs, have your furnace cleaned before the season starts. Regular maintenance can save you up to 10% in fuel consumption! Clean your filters and check ducts for leaks.



### **The Ugly**

There have been many calls about errors made by prospective tenants on the rental application. For example, an incorrect social security number was given on the application. Make sure you ask to see your prospective tenants state photo ID and social security card. You can then verify their name and DOB to their state photo ID.

## Bankruptcy of a Tenant



During the term of the lease agreement, the landlord may find that the tenant has declared bankruptcy. The rights of the debtor and creditor are controlled by Federal Law. Two issues arise under Bankruptcy Code. The first involves any debt that the tenant owed to the landlord for rent and/or other charges prior to the filing of the petition. The second involves the continuation of the landlord-tenant relationship if the lease term does continue into the post-petition period. The landlord is a creditor and is entitled to prove a claim against the bankrupt's estate. Upon the filing of a petition for bankruptcy, the lease continues, subject to the right of the trustee appointed by the Bankruptcy Court to assume the lease. This trustee has sixty days to assume the lease agreement or it is rejected. They must give adequate assurances that post-petition default will be cured and that future rental payments and performance obligations will be met. The trustee also has the right to assign any lease agreement to another tenant. If the lease is not specifically assumed, the lease agreement terminates.

There are **TWO TYPES** of bankruptcy that have an impact on the landlord-tenant relationship.

**Chapter 7:** The tenant seeks to have all pre-petition debts discharged. They are able to retain all property which is exempt from bankruptcy claims and any other property is sold and applied upon the debts. Upon completion of the proceedings, the pre-petition debts are discharged, including any pre-petition rent that was due and payable to the landlord.

**Chapter 13:** The tenant restructures the debt and undertakes a repayment plan approved by the bankruptcy Court. If the lease agreement is to continue, the plan must include payment of rent and reduction of any remaining debt due to the landlord.

The filing of a petition in bankruptcy acts as a stay or suspension of any proceedings against the tenant by the landlord to collect overdue rent. This means that any legal proceedings brought by the landlord against the tenant for overdue rent may not go forth. The landlord has the right to file a motion with the *Bankruptcy Court* to lift this automatic stay. They may also seek to collect pre-petition rent by filing a Proof of Claim Form with the *Bankruptcy Court*.

## Find your Magisterial District Judge Online!

To find your closet local District Magistrate, visit [www.courts.state.pa.us/index/dj/DJsearch.asp](http://www.courts.state.pa.us/index/dj/DJsearch.asp). Enter your city, county, or zip code to locate your Magisterial District Judge's phone numbers and addresses.



## What is the Covenant of Quiet Enjoyment?

This provision of the lease agreement is an important one. “Quiet Enjoyment” is a term which relates to the ability of the tenant to fully use and possess the leased premises without disturbance from the landlord or anyone acting for the landlord. Every lease in Pennsylvania includes the covenant of quiet enjoyment whether expressed or implied. For example, if the tenant leases a residential unit in an apartment building, any act of the landlord that prevents the tenant from fully using the premises for the agreed-upon purpose may be a breach of the covenant. Although, courts may require that the tenant’s use of the leased premises be “substantially impaired” before the covenant is breached.

The landlord generally is not responsible for acts of others who engage in conduct that disturbs the tenant’s use and possession of the leased premises.

**Example:** A tenant who is disturbed by another tenant in the adjacent leased premises playing a compact disc player loud. This tenant cannot rely on the covenant of quiet enjoyment to seek a remedy against the landlord.

The tenant’s remedy for the landlord’s breach of the covenant is a suit for damages for loss of use of the leased premises. These damages could include the costs of the tenant’s relocation to another leased premises.



**Example:** The landlords maintenance personnel blocked access to the dwelling unit by placing garbage cans in front of the rear entrance. The placement of those cans has resulted in noxious odors seeping into the apartment. This example might lead the tenant to seek any remedies that are available to them under the lease agreement and at law for the breach of the covenant of quiet enjoyment.

## Info Center-The Eviction Report

We have received many calls on how to read the eviction report. Please take note of the following tips!

- Credit reports use the social security number as a mandated field to locate previous addresses. The addresses, not the social security number are then pulled through our eviction database.
- When pulling an eviction report you want to match the exact name and address on the eviction report with the name and address from the **Personal Information** box listed above the report.
- If the name and address do not match your prospective tenant, then the eviction listed on the report does not belong to them.



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## **REFERRAL CONTEST**

Members, please continue to refer the Landlord Association to other landlords. Our goal is to continue to make available the most up-to-date information so that landlords can make sound decisions in choosing their tenants.

For every landlord you refer that joins, you will receive a **free credit report** or **two free PA eviction reports!!**

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