

# Getting Your Things Back After You Move

**IMPORTANT:** This is an excerpt from the 2010 *Landlord-Tenant Law in Oregon* booklet. It 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 in this booklet is accurate as of May 2010. 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 also tell you if the landlord thinks that the value of the property you left is so low (under \$500) that 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 given to you and 8 days to respond if the notice was mailed to you. You can respond verbally (e.g. 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. If you were evicted through a court (FED), the landlord must give you your things without forcing you to pay before giving them to you. The landlord can add the boxing and storage costs to the FED judgment, if the landlord has a judgment, or can sue you for the costs of removal and storage.

If you cannot pick up your things during the notice period (5 or 8 days), you can contact the landlord (by phone, mail, or in person) and set a date to pick up your things. You must contact the landlord during the 5- or 8-day period and you must pick up your things no later than 15 days after that. 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 that 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 "How to Use a Challenge to Garnishment" on Page 39 of the *Landlord-Tenant Law in Oregon\** booklet.) 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 law office for more information.

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

If you were evicted in an FED, the landlord must permit you to pick up your things within the 5 or 8-day notice period (with a possible 15-day extension) without charge in advance to you. The landlord may add the notice and storage costs to an FED judgment and try to collect it later. If you missed the 5 or 8-day notice deadline and the landlord gave the proper notice, then the landlord can sell your things at a reasonable sale to pay for the notice, boxing, storage, sale and unpaid rent. Call a law office 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 "[How to Use a Challenge to Garnishment](#)"\* 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, 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. You can also sue the landlord to recover the things you left behind. 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 in "[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.

**Note:** When a tenant sues a landlord for violations of the Oregon Residential

Landlord-Tenant Act, the lawsuit must be filed (started) within one year of the incident. Claims under other laws might have longer or shorter time deadlines.

## 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 “[Exempt Wages, Money and 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 “[How to Use a Challenge to Garnishment](#)”\* for information on how to use a Challenge to Garnishment.

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 FED case and got a judgment for costs or attorney fees or sued you in another case for unpaid rent and won.

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\* “[How to Use a Challenge to Garnishment](#)” on page 39 of the *Landlord-Tenant Law in Oregon* booklet on [www.oregonlawhelp.org](http://www.oregonlawhelp.org).

\*\* “[Exempt Wages, Money and Property](#)” on page 40 of the *Landlord-Tenant Law in Oregon* booklet on [www.oregonlawhelp.org](http://www.oregonlawhelp.org).

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