

# HANDLING DRUG AND CRIMINAL ACTIVITY AT YOUR PROPERTY

I HAVE DRUG AND CRIMINAL ACTIVITY AT MY PROPERTY, HOW DO I EVICT THIS TENANT BEFORE SOMEONE GETS HURT?

FRANK A. FLYNN, ESQ.

Flynn Law Group

These situations are dangerous and you want to make sure that you proceed with the eviction in the most efficient way. Please contact us first. Then we will review the lease in order to examine the allowable reasons to evict the tenant. Most standard leases require the tenant "to not allow or create any unlawful acts." Additionally these violations must be documented, if other residents are complaining about drug or criminal activity in a unit, document who is complaining, what the problem is, when it happened, how you were informed, and why it's a problem. Everything from physical descriptions of violators or dangerous individuals on the property to pictures and security camera footage. If you have found drug related paraphernalia or a full drug lab in the residence be sure to take pictures!

Simultaneously whenever there is an incident the property manager or RSC should communicate with the tenant; except where the situation is dangerous to the manager or RSC. It is necessary to show that the tenant was aware that the activity was prohibited by the lease and

that the activity has to stop. When you become aware of lease violating behavior send the tenant a letter describing the complaint, identifying the time and date of the incident, and inviting the tenant to discuss the situation. All this information should be kept in the tenant's file and when there is enough documentation or evidence against this tenant contact us to begin the process of terminating the tenancy.

The tenant must be issued a notice to quit identifying the reason for the termination and referring to the lease provisions which have been violated as well as the factual allegations that gave rise to the termination. Then once the eviction is in court the people involved (management, residents, police officers, etc.) can testify to the identity of the violator as well as the prohibited activity being conducted.

In the state of Massachusetts there are two laws that protect the property in these situations, one regarding the tenant and the other regarding visitors and guests of the tenant:

Fast Track Eviction

There is a special law in Massachusetts that allows us to immediately void the lease.

**Massachusetts General Law Chapter 139 Section 19 states:**

*"If a tenant or occupant of a building or tenement,...uses such premises or any part thereof for the purposes of prostitution...or the illegal keeping or sale of alcoholic beverages...or the illegal keeping, sale or manufacture of controlled substances...or the illegal keeping of a weapon...or possession or use of an explosive or incendiary device...or if a tenant or household member of a housing authority or federal or state assisted housing commits an act or acts which would constitute a crime involving the use of force or violence against the person of an employee...or against any person while such person is legally present on the premises of a housing*

*authority or on the premises of federal or state assisted housing...such use or conduct shall, at the election of the lessor or owner, annul and make void the lease or other title under which such tenant or occupant holds, and... the lessor or owner may seek and order requiring the tenant to vacate the premises or may avail himself of [the summary process procedure]."*

The remedies provided in Section 19 are twofold: the landlord can apply for an expedited order from the court or they could proceed under the regular eviction procedure. This procedure is a fast one, calculated to rid the development of a problem quickly and efficiently. If the court finds that the tenant has violated this statute, it will then issue an order declaring that the tenancy is void. This process is very effective but is complicated. Contact Attorney Flynn to assist you with this process.

In regard to visitors or guests of a Massachusetts's tenant we can

obtain a strong order to keep them off the property in certain dangerous situations.

**General Law Chapter 121B  
Section 32C states:**

*"Whenever a person who is not a member of a tenant household has, on or near a public housing development or a subsidized housing development: (a) caused a serious physical harm to a member of a tenant household or employee of the landlord; (b) intentionally, willfully, and repeatedly destroyed, vandalized, or stolen property of a tenant household or of the landlord (c) intentionally and willfully destroyed, vandalized, or stolen property of a tenant household or employee of the landlord and attempted to seriously physically harm a member of a tenant household or employee of the landlord; (d) possessed or carried a*

*weapon...or used an explosive or infernal machine...; (e) unlawfully sold or possessed with intent to distribute a controlled substance;...or (f) committed or repeatedly threatened to commit a battery upon a person or damage to the property of another for the purpose of intimidation because of person's race, color, religion, or nation origin; the landlord of such premises may bring civil action for injunctive or other appropriate equitable relief..."*

Under this statute, if the Court finds that the defendant has engaged in one or more of the activities listed above, it can issue an order prohibiting the defendant from entering onto any portion of the development grounds. If the defendant violates the order, the court can impose either a jail sentence and/or a fine. This process is very effective but is complicated. Contact Attorney Flynn to assist you with this process.

Though these laws don't apply in RI, CT, NH, VT, or ME there are similar laws that can protect your property. If you're having these problems at your property contact our office to speak with an attorney licensed in your state.

