

CARS: A TENANT'S TALE

Handling numerous evictions, a wide variety of situations pop up. One situation we see on a regular basis is a tenant leaves the property and leaves behind an inoperable Pinto (or other undesirable vehicle). Let us assume for this hypothetical that the keys have been left in the property and the tenant has clearly abandoned the property. The tenant has left the property in pristine condition. The only issue is how do you dispose of the rusty death trap that is occupying your otherwise immediately re-rentable property. The answer depends in part on where the vehicle is located.

ABANDONED VEHICLE IN THE GARAGE

Let us first assume that the rust bucket is in the garage. The legislature has provided a means for removal of the vehicle Colorado Revised Statute §42-4-2103 (1) gives the authority for an owner or agent who is an agent for the lessee or owner to have an abandoned motor vehicle removed from the property by an "Operator" or towing company.

For many landlords this is the end of the abandoned vehicle problem. The "Operator" has a procedure that must be followed by statute, including notifying the sheriff's department within thirty minutes of taking possession of the vehicle. This is required because the sheriff's department will then cross check the abandoned vehicle information with the Colorado crime information center computer system to see if the vehicle was reported stolen. The Operator then has ten days to provide the sheriff's department with a report that details where the vehicle was picked up and where it is being stored. The Operator has additional steps they must follow before disposing of the vehicle. Once the vehicle has been removed it will no longer be an issue unless it turns out that the vehicle was stolen. If the vehicle was stolen, the sheriff will likely inquire as to the whereabouts of the tenant. Colorado Revised Statute §42-4-1803, addresses the Abandoned Vehicles on public right of ways.

(1) No person shall abandon any motor vehicle upon public property. Any sheriff, undersheriff, deputy sheriff, police officer, marshal, Colorado state patrol officer, or agent of the Colorado bureau of investigation who finds a motor vehicle

that such officer has reasonable grounds to believe has been abandoned shall require such motor vehicle to be removed or cause the same to be removed and placed in storage in any impound lot designated or maintained by the law enforcement agency employing such officer.

In other words, do not abandon a vehicle in the street or the authorities can have the vehicle towed away. So, if there is a vehicle on a public street that appears to be abandoned, call the local authorities and if you can provide reasonable grounds to convince the officer the vehicle has been abandoned the vehicle will get towed. An example of reasonable grounds: The vehicle was used by the tenant, the tenant surrendered the property by leaving the keys in the unit 4 days ago, and the tenant failed to pay rent last month.

The other issue that could arise is the street public property. There was a case in Colorado in 1979, *Cooper v. Hollis*, in which a police officer saw a truck on a street in a rural area. The truck had expired plates and inspection sticker, and appeared to have been vandalized. The officer thought the road was a county road, so he called in a towing company. The truck was a company truck that belonged to a drilling company. The police officer determined who was the owner, but failed to promptly notify the owner that the truck was towed. The owner was eventually notified and got his truck back after convincing the officer that the truck was parked on a private road. The well driller sued the officer for damages resulting from the truck's impoundment. The trial court originally ruled in favor of the police officer on the grounds that the officer had governmental immunity, but the Colorado Court of Appeals overturned that ruling. Nobody wants to be sued. So you can bet that if a law enforcement officer is going to order that a vehicle be towed, they will be sure the street is a public right of way. If the street is a private street, then hopefully you have a towing/parking policy in place that will outline the procedures and circumstances that will allow the vehicle to be towed. If you do not have a towing/parking policy, the firm can help you develop a policy for your property.

Some larger apartment communities have internal streets that are not considered public property. For these communities it is important to follow the community's towing/parking policy prior to removing an abandoned vehicle. If there is no policy, the landlord can call a towing operator and have the vehicle

removed in the same manner as if the vehicle was stored in a garage.

ABANDONED VEHICLE THAT IS A SWEET RIDE

Say there is a vehicle that has been abandoned on the property that has some value to it (A 1972 cherry red Mustang convertible). Then call your attorney and ask if they would like to come by and pick up their early birthday present. Joking aside, you would really have to examine whether or not the vehicle has been abandoned. This situation does not arise often, but we have seen it occur, where the landlord has an interest in obtaining the vehicle because they may have some use for it or they may recover some value as an offset to damages such as unpaid rent.

This is a situation where you need to be cautious, not many people would leave a valuable vehicle behind. You should first check and make sure the vehicle is not stolen. Contact the authorities, and have them run a check. Explain that the vehicle was left on the property, and you want to make sure the vehicle is not stolen. There could be a lien on the vehicle; you would want to perform an asset search with the department of motor vehicles. There often times is a car loan, and that lender has a secured interest in the vehicle. If these items lead to no warning signs, contact our office before you take the vehicle for a ride. There are numerous other issues that could complicate the situation or create problems for you in the future.