



# **HOUSING ISSUES IN WYOMING**

## **Presenter**

The Rev. Lynn E.  
Cunningham, Esq.

lcunningham@law.  
gwu.edu

Lynn E. Cunningham lives in Dubois, Wyoming and has practiced law there since 2005. He has served as of counsel to the law firm of Terris, Pravlik and Millian in Washington, D.C. since 1996. He specializes in anti-poverty and civil rights law. He is a member of the D.C., New York, and Wyoming bars. He has retired as Professor Emeritus of Clinical Law at the George Washington University Law School, where he taught in the clinical program from 1996 to 2005.

## **THE NATURE OF THE RESIDENTIAL LANDLORD-TENANT RELATIONSHIP**

- ✓ Tenant needs a home, a place to live, a place to raise children, to recover after a day of hard work, or to recover from illness, or endure a disability.
- ✓ Landlord has large amounts of money invested in the property, and is normally heavily dependent on the income from the property.
- ✓ Sharply competing economic interests in a physical piece of property, the rental apartment or house.

# COMMENCING AND TRYING THE FED ACTION

✓ At the start of your handling the case, identifying clearly the nature of the client's relationship and role is crucial.

- Is there a landlord and tenant relationship?
- Who is the tenant, or subtenant?
- Who is the landlord?
- Is this a intra-family dispute?
- Did a friend simply accommodate a friend, and allow them to occupy a cabin or a house, but then failed to leave when asked to do so?
- Is there a written lease, or simply an oral agreement about using housing space?
- Is the situation someone letting a friend use a summer cabin temporarily?
- Why is the tenant failing to pay rent?
- What are the conditions of the dwelling unit?
- Is there a rent - to - purchase agreement?

## COMMENCING AND TRYING THE FED ACTION, con't.

### ✓ Notice to leave": WY 1-21-1003

- Landlord must service written notice at least 3 days before commencing the action
- How served? meaning of the statutory term "leave at the dwelling"?

### ✓ Summons and complaint: 1-21-1004

- The Circuit rules require a full, written civil complaint by the party commencing the action.
- "No less than three nor more than 12 days before trial" puts the landlord and the tenant on a very tight time frame.

## COMMENCING AND TRYING THE FED ACTION, con't.

- ✓ Tenant may file a counterclaim against the landlord for conditions violative of the (warranty of habitability) Wyoming Residential Property Act, 1-21-1203

BUT, the tenant has to have, under 1-21-1206:

1. given the landlord “reasonable time” notice of the problematic conditions
2. allowed time for the landlord to correct the conditions
3. not be the cause as the tenant of the bad conditions
4. and then the tenant may file a “civil action in civil court”.

## COMMENCING AND TRYING THE FED ACTION, con't.

- ✓ Scheduling “trial” with Circuit Court. How is this done? on short notice?
- ✓ Tenant can and should ask for a jury trial. As required by the US Constitution (Amendment 7), and as permitted by the FED statute, 1-21-1008, and the Circuit Court Rules.
- ✓ Trial may be had in absence of tenant failing to appear. 1-21-1005; But Landlord must prove up his case
- ✓ Pre-trial discovery is permitted – How is this done in the three days (minimum) allowed before trial?

## COMMENCING AND TRYING THE FED ACTION, con't.

- ✓ Landlord's superior right to possession, under 1-21-1002 is based on;
  - Landlord must prove that he owns the property and is the person renting to the tenant defendant, or that his right to possession is superior to that of the defendant, under the various provisions of 1-21-1002.
  - Landlord must, when appropriate, prove that there is a rental relationship with the tenant, usually by putting the lease into evidence
  - Failure to pay the rent
  - Tenant's violation of the terms of the lease or of the Residential Rental Property Act. 1-21-1211.

## **JUDGMENT FOR POSSESSION AND FOR UNPAID RENT MONEY**

- ✓ Upon entry of judgment after trial, the court must issue a “writ of restitution” for the “officer” to execute.
- ✓ Then, the “officer”, presumably the county sheriff, within two days must go to tenant’s home, and change the locks (?), and keep the tenant away from the property.
- ✓ Is there a right of redemption under Wyoming law? In which the tenant has the right to pay all the rent due prior to the arrival of the sheriff, and the eviction is then called off.

## **JUDGMENT FOR POSSESSION AND FOR UNPAID RENT MONEY, con't.**

- ✓ The Landlord may treat tenant's property in the unit as "abandoned", but see 1-21-1210.
- ✓ The landlord may keep the security deposit up to the amount needed to cover any losses.
- ✓ Storage of tenant's property - see 1-21-1210
- ✓ If lease provides for tenant to pay landlord's attorney fees for handling the FED, the fees are included in the amount of the money judgment.

## APPEAL

- ✓ Either the tenant or landlord may appeal, if they lose,
  - execution of eviction judgment is stayed pending appeal, if tenant deposits all rent due and amounts of landlord's damages. 1-2-1014
- ✓ Tenant must continue to post rent with the court clerk pending the appeal.
- ✓ Appeal is to the District Court and then to the WY Supreme Court.

✓ Ejectment Actions still permitted

✓ Constructive Evictions

- Conditions in the unit are so bad that the tenant feels forced to move out to find acceptable living conditions elsewhere.
- Tenant remedy?

## ✓ Retaliatory Evictions

- The tenant complains to the authorities or to the landlord about bad housing conditions, and the landlord files an FED action against the tenant.
- Tenant remedy?

## ✓ Low Income Energy Assistance Program – help with utility payments.

✓ Wyoming Safe Homes Act. 1-21-1301

✓ Residential Mobile Home Warranties. 35-18-101

# **RENTAL ASSISTANCE PROGRAMS FOR INDIGENT TENANTS**

✓ How do these work generally?

# **FEDERAL HOUSING ASSISTANCE PROGRAMS**

- ✓ Conventional Public Housing
- ✓ Housing Choice Vouchers - Section 8
- ✓ HUD Subsidized Mortgage Insurance and Related Programs
- ✓ Farmers Home Administration/Rural Housing Services under HUD
- ✓ Indian housing programs?

# STATE HOUSING ASSISTANCE PROGRAMS

- ✓ Wyoming Community Development Authority

## EMPLOYER ASSISTED HOUSING (?)

- ✓ Anything like these?
- ✓ Man camps near mineral extraction sites?

# INFORMAL PRIVATE HOUSING ASSISTANCE PROGRAMS

- ✓ Habitat for Humanity
- ✓ Others in Wyoming?

CONCLUSION AND QUESTIONS?