



IOWA LANDLORD ASSOCIATION NEWSLETTER
www.iowalandlord.org

November 2009

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From the Desk of Your Directors

The ILA Fall Educational Seminar and Trade Show is scheduled for Nov. 19 at the Holiday Inn Downtown - 1050 6th Ave. Registration begins at 8 a.m. and this all-day event will run until approximately 4 p.m.

We have an outstanding lineup of speakers and topics consisting of: Vivian Corley (Successful Leasing - Filling Vacancies), Michele Matt-Weston (Professional Motivational Speaker), Joe Harrison (Program Administrator of District Court Mediation Program), Joelle Stolte (Iowa Department of Public Health), Sara Stibitz (Iowa Civil Rights Commission), Linda Mathews (Process Service), Sr. Police Officer Steve Anderson with the Des Moines Police Department (Crime Free Multi Housing Program), Sgt. Larry

Davey with the Des Moines Police Department (Illegal Drug Recognition) and Joe Kelly (ILA Lobbyist). We will also be having a question and answer session featuring our panel of experts.

Your ILA Vendor Partners will be hosting a trade show during the seminar. They will tell you about the valuable products and services they offer (some at discounted rates to ILA members). Door prizes will be given away.

Cost of the all day seminar is \$55 for members and \$70 for non-members. This pricing includes lunch and break refreshments. Realtors can receive continuing education hours. Cost of the CEUs is an additional \$10.

Sign up now! You don't want to miss this information-packed seminar. If you have questions, please call Connie at (515) 255-0675 or email us at: ilaservices@iowalandlord.org

Due to the all-day seminar in November and the busy holiday season in December, there will be no Lunch & Learn meeting during either month. We will resume these meetings in January. Watch for details in your January newsletter.

WELCOME NEW MEMBERS

Richard Ross - Waukee, Iowa

lotis Realty, LLC - Shawn Wagner, Broker - Des Moines, Iowa

WELCOME, NEW VENDOR PARTNER

Mr. Sandless of Iowa - Steve Kopf - Urbandale, Iowa (See details of their

services on page two of this newsletter)



NEW VENDOR



Mr. Sandless offers a revolutionary way to refinish wood floors without the difficulties of sanding. Using a non-toxic solution, they prepare a floor quickly with no odor, no cleanup and no disruption, and then seal it with multiple coats of trade-secret finish, for years of durability and a great look.

Vince Wood, property manager for Campus Apartments in Philadelphia, has been utilizing Mr. Sandless for the last 10 years. "Our units rent very quickly after Mr. Sandless and the floors always look incredible!"

Mr. Sandless costs less than sanding! For more information call Mr. Sandless at (877) WOOD-487 or visit www.MrSandless.com.

Official Holiday in November

Government offices will be closed on Thursday, Nov. 26, for the Thanksgiving holiday.

ILA Legislative Report

Joe Kelly
ILA Lobbyist



2010 Legislative Session

The first thing to remember about the 2010 session is that it's the second year of the 83rd General Assembly. That means all bills not passed in 2009 are eligible for consideration in 2010. Those we didn't like in 2009 could be revived for another look.

As for new initiatives, with the financial condition that all levels of government are in, it's not the year to expect any kind of property tax reform.

The building code commissioner is filing administrative rules to adopt the latest version of the International Residential Code (IRC) for the State of Iowa building code. This adoption will bring into play mandatory sprinklers for one-

and two-family construction.

The state has decided to delay implementation of the sprinkler portion of the building code until Jan. 1, 2013.

The state building code doesn't affect most members of ILA. However, cities like Des Moines, which has its own building code, will likely follow along with the state and amend its building code to require mandatory sprinklers. Des Moines, or any other city with a building code, would not have to wait until 2013 if they didn't want to.

If you were doing major renovations to your rental house or duplex, or building a new property, you might come under a mandatory sprinkler requirement.

The Iowa Home Builders Association is working with legislature now to see if they can get this administrative rule overturned. The organization believes that sprinkler systems should not be made mandatory.

FALL MAINTENANCE TIPS

Winter came to Iowa a little early this year. Hopefully you had already started your fall property maintenance. If not, now is the time!

Remove all leaves from the grounds and rain gutters.

Inspect and prepare heating equipment.

Make sure air conditioners have been removed from windows and all operable storm windows are in place and closed for the season.

Don't forget to caulk those expensive air leaks and put weather stripping on outside doors.

Take care of any winter pool maintenance that is necessary.

Make sure you have your snow and ice removal plans in place.

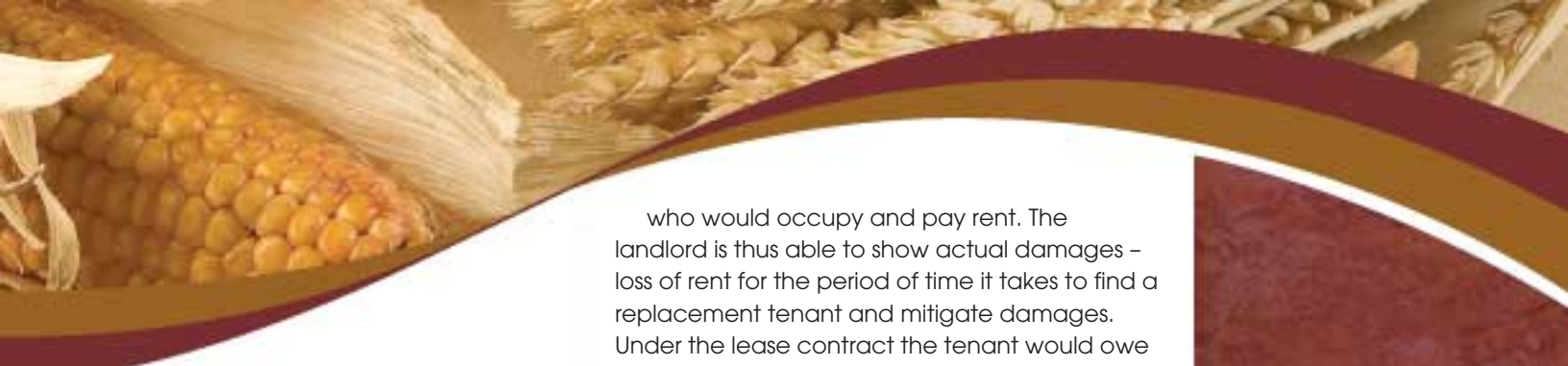


Turn Back Time and Relax

On Nov. 1, when daylight saving time ends, use the "extra" hour to unwind instead of catching up on work. "Fall back" and put your feet up on Zero-Tasking Day.

Now is also a good time to check your smoke detectors to make sure they are working properly and change batteries.





ASK AN ATTORNEY
Legal Q & A

by Mark V. Hanson
Attorney at Law,
Whitfield & Eddy, P.L.C.

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Question: If a tenant signs a lease and pays a deposit (but does not get keys) and then decides not to take the apartment are you required to return the full deposit?

Response: I am going to add to the question – can you sue for rent for the term of the contract, assuming you mitigate damages?

Iowa Code Section 562A.12(3) provides you can withhold only such amounts as are reasonably necessary for the following reasons: a. To remedy a tenant’s default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement. b. To restore the dwelling unit to its condition at the commencement of the tenancy, ordinary wear and tear excepted. c. To recover expenses incurred in acquiring possession of the premises. The burden of proving the right to withhold the deposit rests on the landlord.

Obviously in this instance the only reason to withhold the deposit is a. – remedy default in payment of rent or other funds due. Only if you can prove there was rent or other funds due are you entitled to withhold deposit.

Under contract law, the tenant enters into a contract to rent the premises for the period specified – month to month or term of months. The tenant breaks the contract by not moving in and occupying the premises and paying rent. The landlord takes the unit off the market and holds it for the defaulting tenant, and proves up loss of opportunity to sign up a valid tenant

who would occupy and pay rent. The landlord is thus able to show actual damages – loss of rent for the period of time it takes to find a replacement tenant and mitigate damages. Under the lease contract the tenant would owe that rent or those funds.

So, yes, under contract law the landlord could withhold the deposit and apply it against the damages – loss of rent payments.

But, herein comes the rub. You may be thinking the magistrates, associate judges on appeal and appeals court would be interested in following Iowa law of contracts. This is a big mistake. I know (as does a member of this organization) from personal experience these judicial officials do not follow Iowa law of contracts. They follow “The Law of what their opinion is who should win the case.” Then they find some aspect of the case facts, or application of law, upon which to hang their robe to justify their ruling, in the process ignoring law favoring the other side. In the case of suing for a month of rent, which was lost for failure of the tenant to take possession and pay the rent, the magistrate and associate judge ignored contract law, and ignored that the landlord suffered damages, and ruled the landlord was not entitled to a judgment for that month rent. This would then lead to the conclusion the landlord was also not entitled to withhold deposit for the month rent which was found to be not due.

No attorney will guarantee you will win a particular case. In small claims this is even more so, because you have no idea which garden path the magistrate will wander down. The best the attorney can do is have his facts well in mind, have the law well in mind and be able to think on his/her feet and recite the facts and the law to the magistrate forcefully enough the magistrate has no alternative but to rule following that law. But, beyond that, you are in Wonderland where things are not as they appear, and all that is left is the cat’s smile.

“The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. This disclosure is required by the rule of the Supreme Court of Iowa.”

Meet a Vendor



Kitchens & Fireplaces was founded in 1923 and is now one of the largest kitchen and bathroom distributors in the Midwest, supplying builders, remodelers, homeowners and distributors with quality products for kitchens, bathrooms and fireplaces. We carry cabinets, counter tops, fireplaces, hardwood, wood flooring, organizational solutions, appliances and much more. Buying in large volume, we are able to pass this savings along to you. For more information contact Marcine Cameron at (515) 270-6558, Ext. 315, or email her at mcameron@ckfco.com. She will work with you to match your budget and style, making your needs a reality. Kitchens & Fireplaces’ showroom is located at 11271 Meredith Drive, Urbandale, IA. www.ckfco.com

November 2009

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|--|--------|--|--------------------|--|---------------------------------|----------|
| 1 Daylight Saving Time Ends - Set your Clocks Back One Hour | 2 | 3 | 4 | 5 | 6 | 7 |
| 8 | 9 | 10 | 11 Veterans Day | 12 | 13 <i>World Kindness Day</i> | 14 |
| 15 AMERICA RECYCLES DAY ♻️ | 16 | 17 | 18 | 19 ILA Fall Educational Seminar & Trade Show - 8 a.m.-4 p.m. Holiday Inn Downtown - 1050 6th Ave. | 20 | 21 |
| 22 | 23 | 24 | 25 | 26 Thanksgiving - ILA Offices Closed | 27 | 28 |
| 29 | 30 | MONTH OF THE MILITARY FAMILY  | | | | |



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