

Form 25A – Notice of Abandoned Property: Deceased Tenant

As of January 1, 2010, changes to ORS 90.425 became effective to clarify the procedures for dealing with personal property of a tenant who has passed away. If the landlord follows these new procedures set forth in ORS 90.425(21), they will not be liable to another person who may show up later and claim they have rights to the property of the deceased tenant. Form 25A is to be used when the SOLE TENANT (*e.g.*, one who lives alone – has no co-tenants/roommates) of the premises dies. In the event the sole tenant is deceased, the following individuals have the same rights and responsibilities regarding the abandoned property as a tenant: An heir or devisee, a personal representative named in a will or appointed by a court, or any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

The notice of abandoned property must be sent by 1st class mail to the deceased tenant at the premises, personally delivered or sent by first class mail to any known heir, devisee, personal representative or designated person, if actually known to the landlord, and sent by 1st class mail to the attention of an estate administrator of the Department of State Lands. The heir, devisee, personal representative or Department of State Lands administrator have 8 days from when you mail the notice to them to contact you to let you know they want to retrieve the deceased tenant's belongings. They then have 15 days from the date they contact you to schedule a time or times to come get those belongings. They must also show the landlord reasonable evidence that the person is an heir, devisee, personal representative or Department of State Lands estate administrator. If neither the heir, devisee, personal representative nor Department of State Lands administrator responds within the above abandoned property timeframes, the landlord is to allow removal of personal property by the designated person of the tenant. The designated person would have to contact the landlord within the abandoned property timeframes, and show reasonable evidence that the person is the designated person.

As with any abandoned property notice, the landlord must notify the heir, devisee, personal representative and Department of State Lands administrator whether the fair market value of the belongings are worth \$500 or less or more than \$500 by checking one of the boxes at the end of the notice. If the property is worth less than \$500, and the heir, devisee, personal representative and Department of State Lands administrator fail to contact you or fail to remove their belongings after contacting you, and if the designated person also fails to contact you or remove the belongings, then you may dispose of the belongings by throwing them away or giving them to a charity. If the value of the property is more than \$500, and the heir, devisee, personal representative and Department of State Lands administrator fail to contact you or fail to remove the belongings, and if the designated person also fails to contact you or remove the belongings, then you must sell the property in a commercially reasonable sale.

A landlord who complies with ORS 90.425 and allows removal of personal property is not liable to another person that has a claim or interest in the personal property. Failure to comply with abandoned property procedures results in a stiff penalty, namely, the tenant's estate is relieved of liability for unpaid rent and for damages caused by the tenant that were not deliberate, intentional or grossly negligent. In addition, the tenant's estate can recover from the landlord up to twice the value of any property disposed of without complying with the abandoned property

procedures. Furthermore, the prevailing party in a case filed under the Oregon Landlord Tenant Act is entitled to their court costs, a prevailing party fee and reasonable attorney fees.