

# Saving Your Personal Property Left in Apartment

## Your Rights in Personal Property Left In Former Dwelling - A Question/Answer Walk-Through

You know you won't be living in your apartment for much longer. Maybe because you've found a better place, or maybe you have been evicted. Whatever the reason for leaving, you will reach that very last day as a tenant.

What if you can't get all your personal property out by that last day? Is your property automatically lost to you?

No. Your personal property left behind in a former apartment is NOT automatically lost to you. A law in New Hampshire requires your former landlord to **store all your property left behind for 7 DAYS** from your last day in the apartment. This law gives you the right to go back and get your property during this 7-day period. This law also gives the landlord the right to get rid of your property without notice to you AFTER the 7-day limit expires.

This law is called [RSA 540-A:3,VII](#):

*"... a landlord shall maintain and exercise reasonable care in the storage of the personal property of a tenant who has vacated the premises, either voluntarily or by eviction, for a period of 7 days after the date upon which such tenant has vacated. During this period, the tenant shall be allowed to recover personal property without payment of rent or storage fees. After the 7-day limit has expired, such personal property may be disposed of by the landlord without notice to the tenant."*

## Step By Step Walk-Through

# FAQ - Frequently Asked Questions and Answers On Getting Your Stuff Back

7 Days...From Your Last Day In The Apartment...To Get Your Personal Property

**I found a new apartment. I thought I got all my stuff out before I handed my old landlord back the keys today. But I just remembered I left my exercise equipment in the basement. Have I lost the right to get my equipment?**

No, you have not lost the right to get your equipment. If you gave the keys back to the landlord today, then today was your last official day in that apartment. You have 7 days from today to ask the landlord to let you back in so you can get your equipment.

**Does the 7-day period include weekends and holidays?**

Yes. The law gives you 7 straight days to get your property, weekends and holidays included. For example, if you left on a Sunday, you have until the end of the day on the following Sunday to contact your old landlord and get your property. If Thanksgiving Thursday falls within this week, it's counted as one of your 7 days.

**I don't want to leave my apartment, but my landlord is selling the building and wants me out. If I satisfy my landlord and go, will I still have 7 days from the day I leave to get any property left behind?**

Yes. Whether you decide on your own to leave or you leave because your landlord wants you out, you'll still have 7 days from your last day in the apartment to arrange with the landlord a time when you can go back and get your property.

**My landlord wanted me to leave, but I refused to go. My landlord then took me through the lawful eviction process. I had an eviction hearing a few days ago. I'm still waiting for the judge to make a decision. If the judge's decision goes against me, when does the clock start ticking on my 7-day period to get my property out of the apartment?**

The clock starts ticking on your 7 days when you leave the apartment for good. And you don't have to leave your apartment on the day the judge's decision goes against you (explained in detail in our [Walk through The Eviction Process](#) article). If your landlord wins the eviction,

your landlord will get a court order called a WRIT OF POSSESSION. The writ of possession is what the landlord needs if he wants to have you lawfully removed from the apartment by a sheriff. You only have to leave when a sheriff comes to your door with the writ of possession and orders you out. And you'll have 7 days from that day - your last official day in the apartment - to arrange with the landlord a time when you can go back and get your property.

**I had my eviction hearing already and the judge ruled against me. The sheriff will be here in a couple days with the writ of possession. I still have the apartment keys, but I'm moving in with friends today so my kids won't have to see the sheriff order us out. When does the clock start ticking on my 7 days to go back and get my property....when I leave today or when the sheriff shows up in a couple days with the writ of possession?**

You haven't given the keys back to the landlord, so your last official day in the apartment will be the day when the sheriff shows up and tapes the writ of possession on the door. You'll have 7 days from the day the sheriff does this to arrange with the landlord a time when you can go back and get your property.

**Am I allowed to let myself back into my old apartment and get my property after I've given back the keys or have been locked out by a sheriff?**

No. When your landlord gets back possession of the apartment, either because you decided to leave or you were forced out by a sheriff, you no longer have a right to re-enter whenever you want. That apartment is no longer your home. You must contact the former landlord within 7 days from the day you left and arrange a time convenient for the both of you when you can go back and get your property.

**My old landlord told me he moved all of my property from my old apartment to a storage facility. I don't like the idea of my old landlord touching my stuff. Is my old landlord allowed to do that?**

Yes. Your former landlord is allowed to move any property you left behind to a storage facility. But your landlord must be careful. Your landlord must handle your property with "reasonable care" if it's moved to a different location.

**What does "reasonable care" of my property mean?**

"Reasonable care" can mean leaving your property where you left it inside the apartment, or your former landlord can move your items to a

proper storage facility. But the former landlord does NOT have the right to throw away your property; give your property away; damage your property; leave your property outside where it's exposed to the weather; or carelessly handle your property throughout the 7-day period after your last day in the apartment.

**I have a physical disability. I would like to go back to my old apartment and grab my property before the 7-day limit expires. But I am physically unable to move anything. What can I do to save my things?**

If you have disabilities or are a senior citizen or if there is another reason why you can't physically move all your property in 7 days, don't give up. Consider calling these agencies/organizations for help:

- Your local high school
- Your local Boy/Girl Scout Troop
- Your local church or temple
- Your regional Community Action Program
- NH Catholic Charities @ 1-800-562-5249
- NH Helpline @ 2-1-1

Explain your problem to these organizations and ask for help. LARC can't speak for these organizations, but maybe one in your area will find volunteers to help you - adults with vehicles and young people with strong backs to help you move your property to a new apartment or a storage unit.

**I was told by my old landlord on the day I left my apartment that I was never to contact him again. What can I do now about contacting my old landlord to get my property before the 7 days run out?**

If there is no restraining order in place that stops you from contacting your former landlord, then you have a right to call and arrange a time when you can go back and get your property within this 7-day period. When you call your former landlord, be polite...even if you don't feel like being polite. Being polite and reasonable to your former landlord may help you get your property sooner.

**I've called my old landlord over and over. He just won't take my calls or respond to the voicemail messages I leave. What should I do?**

Write your former landlord a short letter that informs him your property is still in the apartment. Ask him to respond by phone (include your

phone#) with a time when you can come and get your property. Inform your former landlord that the law – RSA 540-A:3,VII - requires him to work with you as you try to get your property back over the next 7 days. Your letter should be clear and polite. Date and sign your letter, and make a copy for your records. The copy may come in handy later to show that you really did give your landlord an opportunity to follow the law.

If your old landlord won't respond to your calls or letter about property still in the former apartment, and if your old landlord used an attorney to evict you, call the attorney. True, the attorney does not work for you. But the attorney will probably advise your old landlord to follow the law – RSA 540-A:3,VII - and let you get your property within 7 days from your last day in the apartment. The landlord's attorney will know his client, your former landlord, may get penalized for not following the law.

### **I left my apartment owing back rent. Does my old landlord have the right to demand the back rent before I can get my property?**

No. Your former landlord does not have the right to charge you rent or a storage fee before you are allowed to get your property within the 7-day limit.

## **What If Your Former Landlord Doesn't Follow The Law? What Can You Do?**

You've tried your best to work with your former landlord and get your property that's still inside your former apartment. Perhaps four, five, or six days have passed since you left your former apartment for good. You have a **7-day limit** to get your property before the landlord can throw your property away. You've followed the information, the advice, and the strategies discussed in this article. But your former landlord has:

- Failed to take your calls
- Failed to answer your letter
- Told you to go away
- Threatened to call the police
- Demanded back rent, storage fees, or other charges
- Threw your property away
- Gave your property away
- Damaged your property

- Misplaced/lost your property

## What Can I Do To Get My Property Back?

If any of these examples describes your situation, your former landlord may be violating a law known in New Hampshire as 540-A. You may file a 540-A petition against your former landlord and claim that the landlord violated this law. A judge will review the petition and may order your former landlord to immediately return your personal property. And, if any of your property has been lost, damaged, or stolen while in the landlord's care, a judge may order your former landlord to pay you for the damage.

You can make your claim by going to your local district court and asking the clerk for a 540-A Petition or fill it out here first, [540-A petition](#).

There are 10 claims already printed on the 540-A petition. The claim you would check states:

My landlord willfully seized my personal belongings without prior permission from the court.

The 540-A petition has temporary and final orders which are also printed on the petition. The temporary orders you would check state:

Find that I am in immediate threat of irreparable harm due to the actions of the defendant set forth above.

Order the landlord to immediately return all of my personal property.

One final order you would check states:

Find that my landlord willfully seized my personal belongings without prior permission from the court.

And if you believe any of your personal property was lost, damaged, or stolen while in your landlord's care, you may also want to check another final order which states:

Award damages to me in the amount of \$\_\_\_\_\_

## What Happens After I File a 540-A Petition at the Court?

After you file your 540-A petition with the clerk, a judge should review the petition right away. The clerk will inform you right away if a judge grants your 540-A petition and gives you an order that tells the landlord to immediately return all of your personal property. The clerk will also inform you when the final hearing will take place. The clerk will then either send the 540-A orders to law enforcement (county sheriff's office or local police) or tell you to bring the 540-A orders to law enforcement. When law enforcement gets the 540-A orders, they will serve the landlord...usually right away.

A temporary order served by a sheriff or a police officer on your former landlord should allow you to quickly save your personal property. If some or all of your property is lost or damaged, and if you checked off the final order for an award of damages on the petition, you can ask the judge for an award at the final hearing. You would also show the judge at the final hearing a copy of the letter you sent the former landlord which asked him to follow 540-A.

### **How much does it cost to file the 540-A petition?**

The 540-A petition costs you nothing to file. It's free.

### **Will it cost me anything to have law enforcement serve the judge's 540-A orders on my former landlord?**

No, there should be no service cost. If you are told by the court or by law enforcement that you must pay for the 540-A orders to be served, call LARC for assistance.

### **I will be forced out of my apartment by a sheriff tomorrow. I know my landlord won't allow me to get my property after I leave. Can I just save time and file the petition right away?**

No. You must give your landlord an opportunity to do the right thing. Use the advice, information, and strategies offered in this article. If your landlord still fails to follow the law and you remain in danger of losing your personal property, then you may consider using the 540-A petition.

## **Do You Need More Help With The 540-A Petition?**

Do you think you have a 540-A claim against your former landlord? Do you think it's time to file a 540-A petition to save your personal property? Do you still have questions about **how to file the 540-A**

**petition (need to add link)** correctly? Read our guide on filing a 540-A claim or contact the Legal Advice and Referral Center (LARC). [Apply online](#) or call, 603-224-3333. We'll help you figure it out.

## Try also reading...

- [Tenant's rights overview](#)
- [Do you smoke and live in public housing?](#)
- [Fair Housing Laws](#)
- [Rental Housing and Service Animals: ADA and FHAA- when does each apply?](#)
- [To Withhold Rent Or Not To Withhold Rent - That Is The Question](#)
- [Filing a Petition Under RSA 540-A](#)
- [Discovery in Landlord and Tenant Cases](#)
- [Bed Bugs in New Hampshire & The Law](#)

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