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STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Lena M. Boswell  
Executive Director  
Andalusia Housing Authority  
145 Murphree Drive  
Andalusia, Alabama 36420

Landlord and Tenant Act – Notices –  
Evictions – Housing Authorities – Mail –  
Addresses – Leases – Covington County

In the absence of a contrary agreement by the parties, a landlord may serve a notice-of-lease termination upon a tenant by U.S. mail to the tenant's address of record provided that the tenant acknowledges receipt of the notice or the landlord can otherwise prove receipt by the tenant. Personal delivery to the tenant, however, as provided by section 35-9-7 of the Code, is the most prudent practice.

Dear Ms. Boswell:

This opinion of the Attorney General is issued in response to your request on behalf of the Housing Authority of the City of Andalusia ("Housing Authority").

QUESTION

May a notice-of-lease termination under Alabama law be served on a tenant by U.S. mail sent to the tenant's address of record?

FACTS AND ANALYSIS

You have requested the guidance of this Office on the appropriate means by which service of a notice-of-lease termination may be perfected under Alabama law. You have informed this Office that the lease agreement used by the Housing Authority is a standard agreement based upon the requirements of

the United States Department of Housing and Urban Development. The lease does not expressly provide how notice shall be delivered, except to state that, under the terms of the lease, “[n]otice to terminate/vacate from Landlord shall comply with Alabama Law.” The Housing Authority of the City of Andalusia, Alabama, Dwelling Lease at 8 (Oct. 2009).

Alabama law does not provide for a single, mandatory means of providing a notice of termination. The Code of Alabama recognizes that, upon certain conditions, a “landlord may deliver a written notice to terminate the lease to the tenant . . . .” ALA. CODE § 35-9A-421(a) (Supp. 2012). The manner for service of a notice of termination generally cannot be questioned by a tenant who actually receives notice. Registered mail is sufficient if the tenant admits “getting the notice.” *Glenn v. Nixon*, 248 Ala. 569, 572, 28 So. 2d 718, 720 (1946). Even oral notice, when receipt is acknowledged, is sufficient. *Brown v. Williams*, 576 So. 2d 195, 197 (Ala. 1991).

The Code does, however, expressly provide that personal service is satisfactory. Section 35-9-7 of the Code provides, as follows, that notice “may” be delivered by personal service:

(a) Any demand may be made or notice served by delivering a written or printed, or partly written and printed, copy thereof to the tenant, or by leaving the same with some person above the age of 18 years, residing on or in possession of the premises; and in case no one is in the actual possession of said premises, then by posting the same on the premises.

(b) When any such demand is made or notice served by an officer authorized to serve process, his return shall be prima facie evidence of the facts therein stated, and if such demand is made or notice served by any person not an officer, the return may be sworn to by the person serving the same, and shall then be prima facie evidence of the facts therein stated.

ALA. CODE § 35-9-7 (1991).

Accordingly, it is the opinion of this Office that the most prudent practice is personal delivery of the notice of termination to the tenant or other adult in possession of the premises or, failing that, posting notice on the property. Although section 35-9-7 of the Code makes no provision for service by U.S. mail to the tenant’s address of record, such service is nonetheless sufficient if the tenant acknowledges receipt or the landlord can otherwise prove receipt by the tenant.

CONCLUSION

In the absence of a contrary agreement by the parties, a landlord may serve a notice-of-lease termination upon a tenant by U.S. mail to the tenant's address of record provided that the tenant acknowledges receipt of the notice or the landlord can otherwise prove receipt by the tenant. Personal delivery to the tenant, however, as provided by section 35-9-7 of the Code, is the most prudent practice.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ben Baxley of my staff.

Sincerely,

LUTHER STRANGE  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

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