
Judiciary Committee

HB 1425

Title: An act relating to unlawful detainer by a former employee.

Brief Description: Revising unlawful detainer laws to include former employees.

Sponsors: Representatives O'Brien, Erickson, Miloscia, Dunn and McCune.

Brief Summary of Bill

- Permits an unlawful detainer action to be brought against a former employee who previously occupied the property as an employee and fails to vacate the premises after employment is terminated.

Hearing Date: 2/9/05

Staff: Erik Van Hagen (786-5793).

Background:

Unlawful Detainer

An unlawful detainer action is a special statutory procedure commonly used by landlords to recover real property. An unlawful detainer action allows the landlord to quickly terminate the tenancy and regain possession of the property if the tenant does not vacate the property after being served with a notice to vacate. An unlawful detainer action is a summary proceeding that limits the damages and remedies available to the landlord and tenant, but also provides for a pretrial hearing to determine whether possession should be immediately restored to the landlord.

Unlawful detainer proceedings are entitled to priority over other civil cases in the trial setting process. The Washington unlawful detainer statute recognizes seven situations which may trigger a landlord bringing an unlawful detainer action.

Ejectment

Any type of landlord-tenant relationship not provided for in the unlawful detainer statute must rely on an ejectment action to remove a tenant from the premises. An ejectment action requires a 20 day summons, permits types of judgments and damages for the landlord not available in an unlawful detainer, lacks provisions for pretrial writs that permit the immediate removal of the tenant, and lacks the priority over other civil actions.

Landlord/Tenant and Employer/Employee Relationships

When an employment relationship includes the use of housing, this arrangement can be classified either as a tenancy at will or as a concurrent landlord/tenant and employer/employee

relationship. A tenancy at will occurs when the employee/tenant uses the property, without paying rent, in exchange for their labor and on the condition they remain employed. This tenancy at will may be terminated by either party at any time. The occupant must be given a reasonable opportunity to vacate the premises if the landlord chooses to terminate. Because tenancy at will is a common law form of tenancy, the statutory remedy of unlawful detainer may not be used in a tenancy at will. A concurrent landlord/tenant and employer/employee relationship may or may not be designed in a manner that permits the use of an unlawful detainer. This determination will depend on the specific contours to the agreement between the employer/landlord and the employee/tenant.

Summary of Bill:

A property owner is permitted to bring an unlawful detainer action against an individual who previously occupied the property as an employee of the owner or owner's management company if the employment is terminated and the former employee refuses to vacate the premises. The action may be brought after the former employee is served with notice and refuses to leave after three days of receiving notice.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.