



LANDLORD-TENANT (LOCKOUTS)/INNKEEPER-GUEST DISPUTES



ISSUE DATE:	14 June 1993	EFFECTIVE DATE:	15 June 1993
RESCINDS:	S93-12		
INDEX CATEGORY:	Preliminary Investigations		

I. PURPOSE

This directive:

- A. informs Department members of legal requirements under the Chicago Residential Landlord and Tenant Ordinance and sets forth the procedures for investigating and handling lockouts of tenants by landlords or their agents.
- B. cites applicable statutes relative to innkeeper-guest disputes and sets forth the procedures for handling such disputes.

II. POLICY

Under the November 1991 amendments to the Chicago Residential Landlord and Tenant Ordinance, whenever a complaint of a lockout is received by the Chicago Police Department, the Department will investigate and determine whether a violation has occurred.

III. PERTINENT LAWS

- A. Municipal Code of Chicago (MCC), [Chapter 5-12](#) entitled "Residential Landlords and Tenants"
 - 1. MCC 5-12-20 - "Exclusions"
 - 2. MCC 5-12-130 - "Definitions"
 - 3. MCC 5-12-130(e) - "Landlord Remedies"
 - 4. MCC 5-12-160 - "Prohibition on Interruption of Tenant Occupancy by Landlord (LOCKOUTS)"
- B. [740 Illinois Compiled Statutes](#), Section 90 entitled "Innkeeper Protection Act."
 - 1. 740 ILCS 90/5 - "Obtaining lodging, etc., without paying"
 - 2. 740 ILCS 90/7 - "Hotel within meaning of act - Copy of law to be posted"

IV. LANDLORD-TENANT DISPUTE (LOCKOUT) PROCEDURES

- A. A police officer assigned to a landlord-tenant dispute (lockout) will:
 - 1. determine from the facts available whether the conduct complained of constitutes a lockout as specified in the ordinance.
 - 2. in situations wherein a threatened, attempted, or actual lockout has occurred:
 - a. determine from the facts available that the premises involved is a "dwelling unit" as defined by the ordinance.

- b. determine from the facts available that the alleged offender is a landlord and that the person residing at the location is a tenant as defined by the ordinance.

NOTE: In determining whether a person who resides in a single room occupancy (SRO) building, hotel, motel, apartment hotel or YMCA/ YWCA is a tenant, the officer must determine whether the occupant pays rent/room charges on a periodic basis (e.g. a month to month basis) and that he or she has no other permanent address. If both conditions are met, he or she is considered a tenant. If these conditions are not present, refer to Innkeeper-Guest Disputes, Item V of this directive.

- c. determine from the facts available that the conduct is not exempted from the ordinance. Examples of exempt conduct include instances wherein:

- (1) a landlord has a court order for possession of the dwelling unit and engages the Sheriff of Cook County to forcibly evict the tenant and his personal property; or,
- (2) the landlord acting alone or through an agent or attorney, complies with the law pertaining to distress for rent by:
 - (a) filing nothing in court prior to seizing the tenants property;
 - (b) filling out a distress warrant (a warrant authorizing the seizure of another's property to secure the performance of a duty of overdue rent) stating that rent is overdue;
 - (c) serving the warrant on the tenant;
 - (d) seizing the tenants property;
 - (e) filing a copy of the distress warrant and an inventory of the property seized with the Clerk of the Circuit Court immediately after the seizure.

NOTE: In accordance with the provisions of the Illinois Compiled Statutes, Chapter 735, Sections 5/9-301 through 5/9-303, the landlord, his agent, or attorney is required to fill out a distress warrant but is not required to file the warrant in court prior to seizure of the tenants property.

- d. instruct the offender (the landlord or his agent) to end the threats or actual lock-out. This may include:

- (1) restoring the tenant(s) to the dwelling unit;
- (2) giving the tenant(s) keys to any new locks for the dwelling unit;
- (3) returning any of the tenants property that was taken;
- (4) turning on the utilities to the dwelling unit.

- 3. If the offender complies with the officers instructions, issue the offender an **Administrative Notice of Ordinance Violation (ANOV)**, citing MCC 5-12-160.
- 4. If the offender refuses to comply with the officers instruction, effect an arrest.
- 5. If the offender is not at or near the vicinity of the scene, the officer should instruct the complainant to obtain an arrest warrant for the offender.
- 6. When responding to a lockout complaint, the officer must complete a Miscellaneous Incident Exception Report ([CPD-11.419](#)) unless a case report is applicable. A case report may be

applicable if a criminal offense has been committed (such as Criminal Damage To Property, Theft, or Battery) during the lockout.

7. The officer will advise the complaining party that they may file a civil action at the Daley Center to seek additional relief.

NOTE: In those instances when the responding officers require additional legal information or advice to resolve the "lockout," they will contact the City of Chicago Corporation Counsels Office during normal business hours.

B. Department of Human Services

1. The Department of Human Services has a City-wide Emergency Services Program in operation 24 hours a day, 7 days a week. The purpose of this program is to provide immediate services, such as food, temporary shelter, and counseling to the parties. An officer responding to a verified "lockout" will contact his supervisor, apprise him of the facts and obtain his approval to notify the Emergency Services Program.
2. Upon receiving notification of a landlord-tenant dispute (LOCKOUT) from the assigned office, Office of Emergency Management and Communications (OEMC) personnel will contact personnel of the Emergency Services Program and inform them of the location and the police district in which the "lockout" is taking place.

V. INNKEEPER-GUEST DISPUTE PROCEDURES

- A. A police officer responding to an innkeeper-guest dispute will determine, from the facts available, whether:

1. the establishment is a "hotel" within the meaning of the Act when:
 - a. the premises is licensed or should be licensed pursuant to Chapter 4-144 of the Municipal Code of Chicago; and
 - b. 25 or more rooms are used for purposes as stated in the statute.
2. the occupant is a guest or tenant. If the occupant both pays rent/room charges on a periodic basis (by the week or month) and resides in the premises on a permanent basis (has no other permanent residence), he is a tenant, not a guest. The following situations will result in a determination that the occupant is a guest:
 - a. occupant pays rent/room charge daily; has another permanent residence and has resided at the premises less than 32 continuous days; or,
 - b. occupant pays rent/room charge weekly or monthly, but does not reside at the hotel permanently, and has been there less than 32 continuous days.
3. the guest has received food and/or lodging for which payment has not been made. For purposes of the Innkeepers Act, the officer must establish not only that payment was not made for the services, but also that the guest procured such services with an intent to defraud. The following are examples of acts considered prima facie proof of fraudulent intent:
 - a. paying for lodging, food or other accommodations by check or other instrument on which payment has been stopped or refused;
 - b. obtaining lodging, food or accommodations by false pretenses;
 - c. leaving or attempting to leave the premises without paying.

NOTE: Under existing law, the refusal or neglect to pay, standing alone, is not sufficient to show intent to defraud.

- B. In situations where the conditions in Item V-A are present, the responding officer will:
1. effect the arrest of the offender when he is present at or in the immediate vicinity of the incident and the innkeeper or his agent agrees to sign a complaint;
 2. direct the complaining party to obtain an arrest warrant when the offender is no longer at or in the vicinity of the incident.

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92-022 MAA (MER)