Crown Realty & Management Corporation

Who’s in charge?

Occasionally owners get confused on this question …
Who makes the decisions on how my property is managed?
The correct answer might surprise you …
You might not like it.

Owners like to be in charge.
When people own something they feel they should have control over it. It is troubling when someone
tells us “you can’t do that” with something you own. We get irritated because, after all, it’s ours, and
we should be able to do with it what we want. Although that is a common sentiment, it is not always
true. Regarding renting a residential property, it surely is not true. Quite often, especially when we do
something owners don’t like, we hear them say, “well it’s my property and I want it done this way,” or
“who do you think is in charge here - this is my house and I will do what I want with it.”

Crossing two thresholds

Rental property owners need to understand that when they turn their home into a rental property they
have changed the status of the property from ‘a residence’ to ‘a commercial enterprise.’ All the rules
change when a house is owned as a business. What an owner can do with a personal residence is one
thing. What an owner can do with a rental property is very different, especially when it’s residential
property.

Threshold # 1
What was once a ‘residence’ now becomes subject to many laws that control what an owner can (and
cannot) do regarding the property and the occupant. None of us like hearing this, but government is
controlling more and more of our lives, and residential rental property is no exception. When an
owner/investor leases out a property, as a residence, there is a whole new set of laws that are forced
upon the owner; some you won’t like. Ignoring these laws can encourage a lawsuit, court, or even jail.

This discussion is not about Georgia. Georgia is one of the best states to own rentals in as our laws
and court system are very landlord friendly. We can get a non-paying tenant out in 40 to 50 days
(often sooner). Georgia laws are tough on tenants who do not pay, or tear up a property on their way
out. If a landlord has followed Georgia tenancy laws, he will find the judges helpful and
accommodating.

Residential rental property in all states is treated as a ‘business.’ It is subject to many laws that have
evolved over time to protect both the resident and the owner. Fortunately, Georgia courts are very
owner friendly when it comes to rental property, but only if you have followed the laws closely. They
are very unfriendly when landlords knowingly (or ignorantly) violate the rules of the Georgia
Legislature regarding the treatment of tenants.

If you manage your own property, you are not exempt to these laws. Here are just a few:

1. The Landlord Tenant Act
Some landlords naively think the Landlord Tenant Act is for licensed real estate agents not for private
individuals… not so. It is for everyone who rents out a property in Georgia as a residence. These laws
are the benchmarks judges will use when deciding a landlord tenant dispute. The laws address security


deposits, maintenance, move-in and move-out inspections, and lots of other stuff you need to study to keep yourself in good standing with the courts as you enforce your rental agreement with the tenant.

**When owners tell us to** … “give me possession of the property the day the tenant moves out” … we have to say, “we can’t” because the law says that the tenant has five days to dispute the move-out charges and you can’t have possession until that five days ends. This is the Georgia Legislature speaking, not Crown. Or we hear “I’m not doing maintenance until they are current on their rent”… we have to say ‘no to that’ as well. The law says, “The tenant can’t withhold rent for repairs and the landlord can’t withhold repairs for rent.”

**When the owner tells us** … “Don’t repair the refrigerator … take it out” or “I am renting this property without the refrigerator,” we have to say “we can’t” because the law says landlords must keep all appliances left at the property, in good repair and available for the tenant’s use.

These laws that govern landlords also frustrate them, because everyone wants to be in control his or her property, but there is no getting around them. The laws apply to every landlord renting a home in Georgia.

2. **Federal Discrimination Laws:**
These laws apply to everyone renting a property. When you start renting, you need to be very sensitive as to what questions you can ask, what reasons you can give to refuse an application, what words you can use in an ad, and so on. You need to be versed in this law because if you are not, you can get in serious trouble with both state and federal regulators. The enforcers of this law have the letters ‘FBI’ on their shirts and you don’t want to mess with them.

3. **State Fair Housing Laws:**
Federal laws apply and then state Fair Housing laws are additional. Georgia, like every other state, has some additional laws that regulate how landlords treat the public. Better read up on these laws as they can get you in real trouble if you ignore them. By the way, the letters on the shirts of the enforcers of these laws are ‘GBI’ (Georgia Bureau of Investigation). You don’t want to mess with these people either.

4. **Federal Fair Credit Reporting Law**
Do you know what you can do with an individual’s credit information? You better. If a landlord misuses a tenant’s credit report, there can be real trouble. An owner cannot share it with the tenant, a neighbor, CPA, or fellow landlord. These laws apply to you and ignorance of them is no excuse.

5. **Local Zoning Laws:**
Every municipality has their own rules about what ‘residential’ means. Some are stricter than others. Some say you can’t have more than two unmarried persons (not related by blood) in a property.
Neighbors get up in arms when occupancy rules are ignored in their community and will fuss to the local zoning enforcers if you rent to three single tenants. You will not like the outcome.

**When an owner tells us to** … “rent it to three college kids” as there is more rent to collect, we have to say “we can’t” because most communities zoned as “single family residential” have rules about how many non-related parties can live in the property. Ignoring these rules has several consequences.

**When an owner says** … “Put up directional signs outside the community and drive prospects to my property” we have to say, “We can’t” because county laws prohibit that and will fine violators. Knowing the county laws will keep you out of trouble.
Threshold #2

When you turn your property over to a licensed broker (property manager), more governing agencies come into play. In addition to all the laws mentioned above, the broker is also harnessed by additional laws and the owner loses more control. Here are just a few:

1. **The Georgia Real Estate Commission:**
This agency holds the property manager’s license to practice their trade. They have lots of laws that govern the way brokers do business. They regulate every move the manager makes and you should be glad they do. Regulators keep unscrupulous brokers from stealing you money or representing someone other than you. Brokers are more afraid of these folks than they are the owner.

2. **Trust Account Laws:**
Every state has trust account laws that regulate how attorney’s, stockbrokers, and real estate brokers handle others money. These laws prevent brokers from disbursing monies without having collected funds. They require a certain level of accounting practices and balancing requirements. They limit a broker from incurring expenses on a property without having the owner’s funds in the trust account to cover the expense.

When an owner tells us to … “let me hold the security deposit” we have to say, “We can’t” because trust account laws require we keep it in an escrow account until the tenant moves out. The money is not the owners until the tenant moves out and the manager settles the trust accounts.

When the owner tell us to … “start the work and I will send you a check” we have to say, “We can’t” because Georgia trust account law will not let us.

Private landlords can get away with things that a broker would get in trouble over. We are held to a higher standard because ‘we are supposed to know (and follow) the law.’ We are the ones who are trained and licensed to do management. The public comes to us to ‘do it right and keep everyone out of trouble.’ The law is much tougher on brokers then it is on private individuals, and should be. The conclusion, however, is that the private landlord loses more control because the broker is a lot more sensitive about following the law than you might be. The broker is going to ‘do things by the book’ because they have a lot more at stake then you do.

It is natural to think, ‘I’m in control’ of my rental property, when in fact, ‘the broker is.’

You do have ultimate control as to who manages your property. You can fire your property manager, but you can’t control them. You can manage the property yourself, but your property manager will not ‘do it your way.’ They are going to ‘do it their way’ knowing they have the law, the courts, the Georgia Real Estate Commission, and the owner to answer to! Knowing this, good property managers work very hard to set up policies and procedures to do the best job possible for their clients. We know you have choices and we want you happy with Crown. We take our job seriously and will ultimately look out for your interests, even when it does not conform to how you think it should to be done.
Remember this also … ‘the more hands-on you are, the more liability you have.’ Putting barriers between the owner and a tenant is a good way to insulate the owner from liability. Using a Limited Liability Company, a Land Trust, a Corporation, or a Property Manager helps insulate you from the angry tenant, and who they sue, when they feel abused. If you want anonymity, you should take steps to minimize your personal involvement with the property. The more hands-on you are, the more you subject yourself to litigation. Some would argue ‘let the property manager be in the line of fire … give him the gun and vest … let me stay in the background where I am more protected.’ That is good advice, even though you lose some control.