

Message From Chris....

Landlords, Tenants, Brokers, Lenders and those people who deal a lot with commercial leasing - this one's for you this month. What exactly is a "constructive eviction?" When can a commercial tenant claim a constructive eviction? Let's get a better understanding of the legality of this often misused term... (and don't forget to click on my Facebook or YouTube links below to also see my short video on this material).

Constructive Evictions – "Voting With Your Feet"

Under a residential lease contract, there is an implied "warranty of habitability." This means there has to be, among other things, running water, reasonable amounts of hot running water (and reasonable amounts of heat for such hot water) located within the premises for bathing/drinking, a door that locks (for safety reasons), a working heating and air conditioning system (especially during the hot, Summer and cold, Winter months), and certain other basic, essential things; without which, the landlord has breached the implied warranty of habitability (i.e., the implied warranty that the premises can actually be lived in by a human being) and, under such conditions, the tenant can claim that they've been "*constructively evicted*" by their landlord due to the absence of such basic, essential things. **Example:** in the middle of December, a residential tenant could claim they've been constructively evicted by their landlord since the premises has no hot running water and the climate heating system isn't working....

In stark contrast, under a commercial lease contract, there is *no* implied warranty of habitability. **Why?** People don't live (or at least they're not supposed to live) in commercial buildings (except under certain situations, none of which will be discussed here).

***So when can a commercial tenant claim that they've been constructively evicted by their landlord*** (so as to justify their non-payment of rent under their lease)?

Whatever the crazy fact pattern, the end result must be the same: ***tenant must actually physically leave and vacate the premises*** due to the alleged, unreasonable conduct (or omission(s) to act) on the part of landlord. Put another way, whatever the tenant claims constitutes a constructive eviction, the tenant's claim *won't be successful if tenant is still occupying the premises when the tenant claims such constructive eviction* – the court just sees it as free rent for the tenant.... So, if things are as bad as tenant claims, tenant must "vote with their feet" and actually leave the commercial premises to claim a constructive eviction.

What My Clients Are Saying

"Chris Griswold has been a tremendous asset in making my dream a reality! His legal advice, strong business acumen and initiative in helping me find the answers got me started on the right track. His honesty, common sense and strong interest in helping me succeed was a welcome

addition in finding the right partner for legal advice and direction. I look forward to working with him again in the future.”

**Margaret Holloway / Partner, Café 501 and Boulevard Steakhouse; President, Senior Care Network / Oklahoma City, Oklahoma**

**Chris Griswold, P.C.**

**Contact Information:**

7301 Broadway Ext., Suite 200

Oklahoma City, OK 73116

405.229.7595 (cell)

405.840.1019 (office)

405.843.9190 (fax)

[chris@chrisgriswoldpc.com](mailto:chris@chrisgriswoldpc.com)

[www.chrisgriswoldpc.com](http://www.chrisgriswoldpc.com)