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## Dealing with Tenant Non-Compliance in the Era of COVID-19 (and Most Anytime)

By Tia Politi, ORHA Board Secretary  
May 29, 2020



Addressing tenant violations of the rental agreement is challenging anytime, but for rental owners facing issues with their tenants right now, it's especially frustrating. The Governor's moratorium combined with the Oregon courts closures that relegate eviction actions to the lowest tier of concerns, is becoming ruinous for some.

Worried that your tenants will bail owing thousands of dollars? I believe it will happen, but I also think it's less likely to happen if you take a thoughtful, considered approach. While your property rights have been suspended for a time, there are still tools at your disposal: compassion, education, negotiation, social service referrals, non-compliance notices, and the police. Also, in extreme cases, the courts are still expediting urgent matters.

This crisis and the calls I'm getting on the Helpline are highlighting rental owners' collective weaknesses in the areas of relationship-building, negotiation, conflict resolution and tenant non-compliance. It's also spotlighting poor business practices for some who were having problems with their renters prior to the crisis, but didn't take action, or who are lazy screeners and really didn't bother to check out their residents.

### Relationship building

We build relationships with our customers by providing great service, listening, responding in a timely fashion, addressing issues that concern them, appreciating their business, thanking them for their efforts - you know, the way you build a good relationship with anyone in business. Of course, genuine concern is hard to fake, so if you have looked down your nose at your renters and haven't invested time building relationships with them it's going to be a hard sell now.

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## General Meeting

With the health and safety of our members in mind, we have temporarily suspended general meetings at this time. Please refer to our website for updates.  
[roa-swo.com](http://roa-swo.com)

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# RENTAL OWNERS ASSOCIATION OF SOUTHWESTERN OREGON

## Who is the ROA?

Rental Owners Association of Southwestern Oregon is an organization that's been around for over 30 years and consists of landlords who care about practical, legal and profitable land lording practices. Through the association, they share problems, solutions, and ideas with other landlords and find information that comes from similar organizations in Oregon and around the country.



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No one is receptive to information from someone who they don't think cares about them, even superficially, so if you don't want your renters to bail, better be sure to let them know that you care not only for yourself, but for them and their situation.

Expressing compassion for the times we're in, using kindness and persuasion, and offering resources are the best tools we have right now (or most any time). Regardless of the situation, speak respectfully, let them speak, hear them out fully, ask questions to clarify their issues, let them know that you understand the stress of the times, you want them to be stable in their housing, now and in the future, you're willing to work with them, then offer resources where they might get some help. I really think this is almost always the way to go, but now more than ever.

### **The art of negotiation**

Negotiation skills are critical to overall success in managing property. The most successful managers always keep their cool, treat people with dignity and respect, clearly communicate what they can and cannot do (and why), and work to resolve issues in a way that helps everyone save face and get at least some of what they want or need. Force someone to agree to your terms, demean them and their opinions, treat them like dirt and they will get their revenge. Rental owners who don't have good people skills end up paying in many ways: intentional property destruction, online defamation, toxic stress. Does that mean caving in to unreasonable demands or not enforcing your agreement? No, and while it's important to give people space to feel heard, and seek to provide what support we can, people need to solve their own problems. Beware of getting too emotionally invested in your tenant's problems or too involved in achieving solutions. Offer help and referrals, but don't be the total solution or give more than you should.

Also, don't deny that you have self-interest in whatever the issue is. We all have self-interest and acknowledging that lets the other person know that you're not pretending that it's all about them and what they want, thereby making you seem disingenuous.

Right now, for landlords who are trying to sell property, renovate, demolish or move in an immediate family member, let the tenant know that it's coming. They may find it more convenient to move in the summer or fall

rather than the dead of winter and take the initiative to find another place. For property managers, see if it's possible to find them another unit that meets their needs.

Cash for keys is also a viable option. Nothing prohibits negotiating a mutual termination agreement. You can try to incentive a move out by agreeing to refund the deposit in full, forgive any back-owed rent or some other concession to sweeten the deal. If you do make such an agreement, put it in writing and don't hand over any money until they are handing you the keys on their way out of the unit.

### **Conflict resolution**

You'll never talk someone else out of their position or get them to see yours if they view you as the enemy. I'm not telling you to be fake, flattering or obsequious, just approachable, warm and caring. You may not understand where someone is coming from, but taking the time to just listen can give a lot of people what they want. Don't we all want to be heard by someone?

In my career as a property manager, I was told by many residents that I was the best manager they had ever had. I attribute that to my willingness to listen, treat everyone with dignity and respect, help them to the best of my ability but also help them understand my limitations (boss, company policy, finances, laws, owners). My job often involved telling people no, but I always explained why. As a kid I bet you didn't like being told no without an explanation. Well, grown adults don't like it either. Often when you explain why you are not unwilling but unable to give them what they want, it can help them see that you're not the enemy and start a dialogue which is the basis for truly functional communication.

As social animals, people arrange themselves in classes and hierarchies, at least in their own minds. For rental owners, we can be perceived as The Man – and in some ways we are The Man. We have the right to lay down rules for how other people get to live, kick them out if they don't follow our rules or pay their rent. For that reason, and others, residents may not be able to hear the message that you're actually trying to work with them, see them as a valued customer and are trying to help them be stable in their housing. They may believe that you see them only as a source of money. It's your job to treat your customers in such a way that they feel valued in the relationship and feel



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that you care about them as people. That builds social capital that engenders trust, helps you resolve conflicts more easily, and makes it more likely they will see you as an ally not an opponent, and less likely they will feel okay bailing out.

### Focus on the problem, not the person

If you're dealing with non-payment of rent, share rent assistance information, indicate your willingness to give them time to catch up. If they're on a rent strike, remind them it likely won't be granted, so don't spend the money. It will need to be paid back eventually. Educate them on the risks to their credit and rental history, and explain your own financial situation. Many people don't understand all that rental owners are responsible for and the costs they incur for maintenance. I find it helpful to disclose the costs of certain improvements when I do them so they have some idea what I'm putting into the property each year.

I'm hearing from rental owners whose tenants are likely damaging the home, but are denying entry "due to COVID-19" but have multiple people coming and going, or inviting unauthorized people to live there, making their denial more than a little disingenuous. Then there are residents who are high risk, fragile, and super-scared of getting sick, who are exhibiting reactions to COVID-19 that you may think are over the top. Providing assurance that you care for their well-being and asking them under what conditions they would consider allowing entry, then following those instructions to the letter, can get them to let you in if they're truly frightened.

Whatever the reason for denial of entry, if it's unreasonable the law says that's a lease violation and a landlord can serve a notice of termination with cause for that, but what about now? I can't say how a judge would see this, but would they think denial of entry during the pandemic is unreasonable? Maybe, maybe not, and remember, you're not getting to court very fast.

In the end, regardless of how nice you are, it isn't going to help you address anything if the tenant refuses to respond or communicate in any way. All you can do is hunker down, keep documenting what is going on, serve notice if you need to and file in court if you must.

### There is no problem so big that you getting angry or judgmental won't make it worse

Do I get angry? For sure. Am I judgmental about the choices some people make? You bet. Will it help me to

express that? No way. No matter what happens, keep your cool. Focus on the problem, not the person and you'll find ways to express your concerns without the not-so-subtle put downs. For example:

- “It must be hard to keep up with the house and yard with a job and four kids, but I’m concerned about damage to the property. Is there anything I can do to help you get back on track?”
- “I’m hearing that you have someone else living with you. Not sure if that’s true, but we can discuss options for getting them on the lease or adding them as a temporary occupant. What’s the situation?”
- “I’m hearing from the neighbors that there has been occasional fighting that is disturbing to them. Being in this crisis is impacting everyone and I’m concerned for you. I hope you understand that I have to keep the peace and I will have to serve you a notice if it doesn’t stop, but I want to make sure you know that if you don’t feel safe, there are ways I can help and places to get help.”
- “You have a lot of personal property in the unit and I’m concerned for the home, but also your safety. Can we collaborate on a plan to help you get things under control?”
- “You haven’t been paying your rent during this time. I want you to be stable in your housing, and I’m concerned that you might get so far behind that you’ll never catch up. I don’t want this to impact your life in the future, so just know that I’m willing to take payments when this is all over.”

Certainly, being calm and courteous doesn’t solve every issue. We’ve all had experiences with people who for whatever reason were impossible to work with or satisfy. Some people have degrees of mental illness, PTSD, or borderline personalities that can be barriers to communication, collaboration and resolution. They can be manipulative or swing from one extreme emotion or action to another. Then there’s the everyday criminal types, who just don’t seem to care about anyone but themselves.

If you hit the wall where communication breaks down and find it best to walk away you can say something like, “I’m feeling uncomfortable so I’m going to leave/hang up now. Let me know if you decide you want to talk again.” There’s no blame in that message, only that you’re feeling uncomfortable but you’re open to more conversation, and the decision is theirs.

### **Trauma-informed care – dealing with PTSD**

In these turbulent times, each of us is experiencing the current crises in different ways. I pride myself on being a rock, an island as Simon and Garfunkel so poetically described it, but I’ve been anxious lately. Due to childhood scarcity, I’m a stock-piler of necessities pretty much all the time, but I started feeling anxious about products I had plenty of (toilet paper, paper towels, rice, beans). It was weird and not extreme, but I noticed it, and it put me on edge and made me want to double down on buying more and more, ugh.

For someone experiencing a current scarcity, with a history of scarcity and lacking a decent support system of friends and family, I can only imagine how much more extreme the anxiety would be. Now imagine feeling that someone is threatening your shelter. Regardless of how irresponsible the choices may have been that led them to this moment, it’s still a really bad place to be. Everyone understands wanting to point out to someone the error of their ways. Don’t succumb to that temptation, it won’t help.

Think about what’s going through their mind. Where will they go? What will they do? Will they be homeless? How will they ever get into another place? Even if you’re approach is just right and you’re talking about a risk to someone’s housing, you may get an extreme reaction. Some people may become dangerous and violent. Others might get suicidal. Be sure you have a route of exit if things get really ugly.

Persistent stress and post-traumatic stress disorder (PTSD), changes the physical structure of the brain. It shrinks the areas of the brain that help us regulate rational thoughts and actions, and over-activates the primal brain, the part that helps us survive through the fight, flight or freeze response to danger.

When dealing with people who have PTSD, their brain highlights perceived threats (you possibly being one of them), and impairs their ability to see things rationally or find solutions to problems. This isn’t to say their condition excuses bad behavior, but it does explain why you may have trouble collaborating on solutions, and why you will be much more likely to have success using a calm and gentle approach. It may also help you avoid taking any outbursts personally.

*continued on page 8*

## Form of the Month

### Landlord and Tenant Deferment Agreement

In light of the extraordinary circumstances and financial impacts related to the COVID-19 virus epidemic, \_\_\_\_\_ (“Landlord”) and \_\_\_\_\_ (“Tenant(s)”), enter into this deferment agreement (“Agreement”) for the residential dwelling unit located at: \_\_\_\_\_, Oregon (“Premises”), on the following mutually-agreed terms and conditions:

**1. Current Financial Obligations:**

- A. Rent for the Premises is \$\_\_\_\_\_per\_\_\_\_\_.
- B. Utilities/service charges for the Premises is/are:  Not Applicable;  \$\_\_\_\_\_per\_\_\_\_\_.
- C. Late rent payment charges/other charges due for the Premises are:  Not Applicable;  \$\_\_\_\_\_per\_\_\_\_\_, and include\_\_\_\_\_.

2. ORS 90.220(7)(a) informs that monthly rent is payable on the due date without demand, and must be paid before specified dates to avoid eviction for non-payment. ORS 90.220(9)(a) specifies the order of application for payments received from tenants. Landlord and Tenant both intend and agree that all unpaid rent due under this agreement shall remain as outstanding rent due from prior rental periods; all unpaid utilities shall remain as outstanding utilities due from prior rental periods; and all unpaid late rent payment charges or other charges shall remain as outstanding late rent payment charges or other charges, as each are described in ORS 90.220(9)(a)(A)-(E).

**3. Landlord and Tenant agree that a portion of Tenant’s: (  all that apply)**

- A.  periodic rent payment;
- B.  utilities/service charges; and/or,
- C.  other charges;

is/are deferred until \_\_\_\_\_, 2020.

**4. During this period of deferment, Tenant shall pay Landlord: (  all that apply)**

- A.  \$\_\_\_\_\_for periodic rent;
- B.  \$\_\_\_\_\_for utilities/service charges; and/or,
- C.  \$\_\_\_\_\_other charges.

**5. After the agreed deferral period ends, Tenants will:**

- A. Resume making full payment for all accruing periodic amounts due;
- B. Pay Landlord an additional amount of \$\_\_\_\_\_per\_\_\_\_\_ for all unpaid/deferred amounts due until paid in full, with each payment applied by Landlord in the manner described in ORS 90.220(a).

**6. Additional Terms:**

- A. This Agreement is not valid until signed by Landlord and all tenants of the Premises.



- Watch your body language and tone of voice. Keep your body open and relaxed, smile when appropriate, palms up, use a calm, soothing tone, but don't be saccharine. Experts say that 7% of communication is verbal, the other 93% is tone of voice and body language. If the topic turns personal and aggressive, don't respond in kind. "I can see you have strong feelings about that, and I want to understand how we can collaborate on a solution."
- Be empathetic and nonjudgmental. "That's a tough spot to be in. What are you going to do? Can I offer a suggestion?" "Wow, that sounds pretty extreme, how are you coping with that?" Your responses should state your limitations while offering ideas. "Well, unfortunately, I can't waive your rent because I have bills to pay too, but I can reduce your rent for a time or work with you to catch up. Have you heard about the state's rent assistance fund?"
- Focus on feelings. "I think we're all feeling extra stressed right now. I think if we work on a plan, it may help us both cope with this situation."
- Ask for permission. "Would you be open to learning about some resources that could help right now?" It shows respect to ask if you can share resources, not just assume that they need what you have to offer or that your ideas are superior to theirs. If they say no, just move on. "Ok, no problem, just know there are resources available."
- Set limits. "I wish I could afford to waive your rent. You may not know my situation..."
- Pick your battles. "My biggest concern right now is that we take care of X. I'm fine waiting to address Y and Z until later." What is the most urgent matter right now? Focus just on that and ignore other little things that are driving you up the wall for now.
- Allow silence for reflection. Don't feel the need to fill every break in the conversation, and don't repeat yourself.
- Allow time for decisions. "How about we explore the possibilities we have discussed today and talk again in a few days?"
- Use the technique of mirroring. Mirroring is a proven way to help build rapport with someone else by adopting similar patterns of speech and body language. You may be very different from your renters. If you're a formal person speaking to another who is more relaxed, adopting a more relaxed attitude and

## HB 4213

### Effective as of June 26th

On April 1st, the Governor issued Executive Order 20-13, enacting a moratorium on all "no-cause" and "landlord-cause" evictions and evictions for non-payment of rent. Executive Order 20-13 is set to expire at the end of June.

On Friday, June 26th, the Oregon Legislature passed HB 4213, which extends the eviction moratorium on both residential and commercial evictions through September 30th, 2020.

**See PAGE 11 For Details**

you're not talking down to them or adopting a superior attitude, which is a proven rapport-killer.

- Reframe what you hear them say. Reframing statements followed by solutions is a good way to help someone feel heard, be sure that you have received their message accurately and let them know you may have ideas to help. For example, "I hear you saying you have some money, but you're concerned you may need that money to live and don't feel you can pay anything at this time. Is that right? Can I share some resources with you that might help us both?"

Sometimes conversations become circular or turn into what I call scattershot, jumping from topic to topic without any resolution for any of them. This pattern is pretty common with people who suffer from PTSD. If you are discussing a specific issue and the other party redirects the conversation to another issue, stop. Tell them that is an important thing to discuss. Write it down and let them know you can discuss that after you finish addressing the topic at hand. This may happen several times and takes patience to continue to write things down while trying to keep them on track, but it can work.

### **Social services**

We don't all get to have perfect renters who cope well, have an emergency fund, and the ability to handle problems that come their way. Residents with memory issues or disabilities, may need coaching and social service support. Think of ways that you can get them connected to support services or ways to bring them into compliance in a collaborative way that acknowledges the problem while also protecting their dignity.

With a cooperative tenant and good social service supports, you may be able to develop a plan of action to help a struggling renter achieve compliance and stay housed. Sometimes it will take the extreme action of serving a notice of termination with cause before they awaken to the realities of their situation and agree to accept help, but it's worth a try and if it does end badly, at least you'll know that you did what you could.

The 2-1-1 information service can be a great source for social service supports statewide. If your tenant is older or disabled and struggling, try contacting Senior & Disabled Services. If your tenant is having a mental health crisis, call Cahoots or White Bird. If there's domestic violence, they can contact Womenspace or the Dept. of Human Resources. Whatever the problem, our community funds a myriad of programs providing services to the vulnerable.

### **Take it to court**

Aside from non-payment of rent, dealing with lease violations is causing the most consternation for landlords right now. If you are in a situation that has just broken down, remember you can still serve notices for tenant violations and file the action in court. You won't see the inside of a courtroom for a while, but at least you'll be in line when the logjam breaks. Also, some renters may cure the notice or move out if they can't or don't want to cure and want to avoid an eviction on their record. Or it can open the door to a negotiated move out. After a while, your wagging finger means nothing and decisive action can compel a response.

If you have tenants in a lease, remember that a three strikes termination is not prohibited. You can move along the path of providing the required written warning notices for violations and even serve a 90-day notice of non-renewal once they hit the three strikes mark. Be sure you have good documentation of each violation, can prove that you sent the required notices with the required language within 30 days of discovering each violation and that your notice of termination is perfect in every way.

For month-to-month tenants warning notices won't serve to terminate tenancy, so at some point you may need to serve a notice of termination with cause. If they don't cure or move out, you can file in court, just remember if you accept rent beyond the date of termination you will create waiver and your notice will be void.

If you have a severe situation, such as outrageous conduct (drugs, violence, substantial damage), you may be able to expedite your case once it is filed. It requires appearing in court at what is called an ex parte hearing, and pleading for the judge to allow the case to be pushed through more quickly, or you or affected renters might consider trying to get an order of protection. This has worked for a couple of recent Helpline callers who were being threatened or stalked by their tenants, and for a tenant who was abusing and harassing others at a multi-family complex. This is the fastest way to get a dangerous person out of the unit, and it doesn't cost anything.

Managing housing for other humans is a job like no other, providing frustration aplenty, but in these uncertain times when rental owners are clearly shouldering a disproportionate burden, I'm heartened to hear most renters are paying their rent, taking care of the property and being good neighbors.

# Know a fellow landlord who could benefit from using our helpline, taking some courses, networking with other landlords? Refer them to your local ROA!

## Your ROA Board of Directors

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Ever wonder what goes on at ROA Board meetings? Have any suggestions to share? Interested in joining? Bring your thoughts and/or ideas. Or just listen in and see what we're all about.

The ROA Board of Directors meets every first Tuesday of the month at 880 California Ave. in North Bend from noon to 1:00pm. Meetings are always open to members.



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## Moratorium 2.0: It Continues – With Several Differences

By **Brian Cox**, Attorney at Law  
June 29, 2020



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- Creates a six-month repayment grace period after the moratorium ends for tenants to repay their back rent accrued during the moratorium. During the repayment period, tenants may not be evicted for failure to repay their back rent, but they must keep paying their ongoing monthly rent during the grace period or face eviction.
- Allows the landlord to provide notice about the six-month grace period and the balance owed, notifying tenants that an eviction may not be filed before 9/30/2020, and requiring tenants to notify the landlord within 14 days that they intend to utilize the grace period to delay repayment of back rent. If a tenant fails to give the proper notice, the landlord is entitled to recover damages equal to 50% of one month’s rent after the grace period. Landlords may also offer voluntary alternate repayment plans.
- Allows no-cause evictions when a property is sold to a buyer who intends to occupy the property as their primary residence.
- Accommodates landlords who were unable to utilize their ability to no-cause evict someone at the end of the first year of occupancy per ORS 90.427 because that point-in-time occurred during the moratorium. Landlords now have a 30-day period after the moratorium ends to utilize this provision.
- Prohibits negative credit reporting for non-payment of rent during the moratorium and prohibits assessing late fees or other penalties for nonpayment during the moratorium period.
- Allows landlords to accept partial rent payments without waiving certain landlord rights.
- If a landlord violates HB 4213, a tenant may seek injunctive relief to prevent an eviction and also recover up to three months’ rent plus any actual damages.



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