



Entrepreneurs

What To Do When Your Landlord Goes Bust

Maureen Farrell, 05.07.08, 9:55 AM ET

In 2006, Luani Lee thought she had found the perfect deal: a shiny, new 4-bedroom house in a new development on the outskirts of Sacramento, Calif., a 10-minute drive from her medical school, the University of California at Davis. Better yet, at \$2,000 a month, split among four roommates, Lee could afford the rent. "I couldn't believe my luck when I found it," she recalls.

But Lee's luck changed dramatically last December while she was on Christmas break at her parents' house in Pasadena. Eight hours after she arrived, Lee's roommate called to say that she'd just found a notice pasted to their door from a local bank, her landlord's mortgage lender, informing them that the property would be auctioned off in two weeks. The notice said they should leave immediately or face eviction.

The problem: Lee's landlord hadn't been keeping up with his mortgage payments.

It's not just single-family-homeowners who can't make their mortgage payments these days--landlords are busting out, too. Approximately 38% of all U.S. properties foreclosed between October 2007 and January 2008 were non-owner-occupied buildings (likely implying that the owner was an off-site landlord), estimates RealtyTrac, an Irvine, Calif.-based foreclosure-tracking service.

In most states, leases simply get terminated once a property is foreclosed upon--forcing folks like Lee to scramble to find a new home. "I was about to start a surgery rotation, so I knew I couldn't afford to fight it [in court]," she says.

The sour truth: Once the wheels are in motion on a foreclosure, there's not much that can be done to stop it. "The laws for renters right now are completely antiquated regarding foreclosures," says Judith Liben, a housing attorney with the Massachusetts Law Reform Institute.

The good news is there are some moves renters can make to buy some time and ease the pain.

For those looking to tie the knot with a landlord, do some due diligence up front. Landlords are never bashful about making sure you can pay the rent, but it might be time to check that they can, too. Ask your landlord to provide you with a copy of his or her credit report. Another idea: Ask your landlord to hold your security deposit in an escrow account, so you can get it back in the case of a foreclosure.

If you suspect your landlord runs the risk of default (perhaps you haven't heard from her in a few months or simple repairs aren't getting done), there are ways to check if a foreclosure is nigh--and thus buy yourself some crucial time in finding a new place to live. In most states, lenders must let the public know, perhaps six months in advance, when a property is in danger of being foreclosed upon.

The problem with these "notices" is that lenders often post them in obscure publications or even tuck them in a dark corner of the building itself. Check with your state's Registry of Deeds, either online or at a local courthouse. To find out your rights, check with your state's housing agency.

If you're served an actual eviction notice, try not to cut and run. "A bank says you need to leave, and people are frightened to death, so they do it," says Liben. Eviction mechanics differ from state to state, and you may be able to buy valuable time by hanging around. Some states require a judicial process

before eviction; others allow renters to collect for damages, or at least stay in the dwelling for the duration of the lease. Again, check with your state's housing agency, or perhaps the consumer protection bureau.

Lenders may offer you a good chunk of change to get you to leave the property immediately--a practice known as "fees for keys." What they may not tell you is that once you leave, you waive your future rights. Most banks are willing to pay large sums to keep renters from going to court and winning the right to stay for several months, or perhaps collecting damages for problems for which the lender is now responsible. In some states, for example, if a bank fails to pay your utility bill, you can sue for damages. Bottom line: Get ready to bargain.

Finally--and this is good advice when it comes to any potential legal dispute--keep meticulous records. If your landlord starts ignoring maintenance requests, those records could come in handy in court down the road.

"In some states, not fixing conditions of disrepair can become a defense in an eviction," says Maureen McDonoagh, an attorney and Harvard Law School instructor who works on residential housing cases.

At least Lee got lucky in one respect: After months of fighting, she was able to get her security deposit returned. Plenty of displaced renters aren't so lucky.