



University of Arkansas at Little Rock Law Review

Volume 35

Issue 4 *The Ben J. Altheimer Symposium:
A Question of Balance: 40 Years of the Uniform
Residential Landlord and Tenant Act and
Tenant's Rights in Arkansas*

Article 13

2013

Introduction: A Question of Balance: 40 Years of the Uniform Residential Landlord and Tenant Act and Tenants' Rights in Arkansas

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Recommended Citation

Lynn Foster, *Introduction: A Question of Balance: 40 Years of the Uniform Residential Landlord and Tenant Act and Tenants' Rights in Arkansas*, 35 U. ARK. LITTLE ROCK L. REV. 781 (2013).

Available at: <https://lawrepository.ualr.edu/lawreview/vol35/iss4/13>

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INTRODUCTION—A QUESTION OF BALANCE: 40 YEARS OF THE
UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT AND
TENANTS' RIGHTS IN ARKANSAS

*Lynn Foster**

Most of the papers in this volume were presented at the University of Arkansas at Little Rock Law Review's 2013 Alzheimer Symposium, on Feb. 1, 2013. The impetus for the symposium was twofold. First, 2012 marked the fortieth anniversary of the Uniform Residential Landlord and Tenant Act. This uniform law was instrumental in establishing the implied warranty of habitability in residential leases throughout the United States. It changed the framework of residential landlord-tenant law in other ways as well, tilting the balance of law more in favor of residential tenants. Second, the report of the Arkansas Non-Legislative Commission for the Study of Landlord-Tenant Law, issued a few weeks earlier, disclosed the troubling news that Arkansas was now the only state that did not have some form of the implied warranty. Further, the report noted that Arkansas was the only state that makes occupation of leased premises coupled with failure to pay rent a crime. These issues suggested a natural agenda for the symposium: morning presenters who would speak on various aspects of the URLTA, which also is under revision by the Uniform Law Commission, and afternoon presenters who would focus on aspects of Arkansas landlord-tenant law.

Dale Whitman, at the time the Distinguished Visiting Professor of Law at the University of Arkansas School of Law, presented the keynote address.¹ Professor Alice Noble-Allgire of Southern Illinois University spoke of the work of the Uniform Law Commission Drafting Committee for the Revised Uniform Residential Landlord and Tenant Act, expected to be adopted in 2015. Professor David Campbell of Mississippi College has provided an in-depth look at the implied warranty of habitability, examining its application by courts and treatment by commentators throughout its forty-year history.² Professors Eloisa C. Rodriguez-Dod of Florida International University and Elena Marty-Nelson of Nova Southeastern University focused on two aspects of lease termination—first, eviction of tenants for rea-

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1. Dale A. Whitman, *Fifty Years of Landlord-Tenant Law: a Perspective*, 35 U. ARK. LITTLE ROCK L. REV. 785 (2013).

2. Donald E. Campbell, *Forty (Plus) Years after the Revolution: Observations on the Implied Warranty of Habitability*, 35 U. ARK. LITTLE ROCK L. REV. 793 (2013).

sons outside of the tenants' control, or "no-fault" evictions³—and second, premature lease termination by victims of domestic violence and military service members⁴—both authors analyzing the current law and offering recommendations for improvement. Professor Missy Lonegrass of Louisiana State University offered a comparative law perspective, focusing on English and French landlord-tenant law and urging the RURLTA drafters to draw on reforms enacted in those countries.⁵ The last morning speaker, Lawrence McDonough, an RURLTA observer and a Minnesota Legal Aid attorney who has used the URLTA in his practice, contrasted the RURLTA changes with the reforms of the original URLTA, urging the RURLTA to make further major reforms.⁶

Afternoon speakers focusing on Arkansas law included myself, who discussed the work of the Arkansas landlord-tenant commission,⁷ and Arkansas Legal Aid attorney Marshall Prettyman, who discussed the 2009 amendments to Arkansas's half-adoption of the URLTA (which enacted only the pro-landlord provisions) and "civil eviction" statute (a thus-far unsuccessful attempt to move evictions into district courts).⁸

This issue also contains two articles on landlord-tenant law by authors who did not present at the symposium. The security deposit and its relation to Article 9 of the UCC was one of two issues⁹ in the original memo from the ABA-ULC Joint Editorial Board for Uniform Real Property Acts suggesting the formation of a study committee for an RURLTA.¹⁰ William Henning and Wilson Freyermuth have analyzed the various approaches of the states in their article, together with their solution and proposed

3. Eloisa C. Rodriguez-Dod, *"But My Lease Isn't Up Yet!": Finding Fault with "No-Fault" Evictions*, 35 U. ARK. LITTLE ROCK L. REV. 839 (2013).

4. Elena Marty-Nelson, *We Gotta Get Out of This Place: When Residential Tenants Leave Due to Exigent Circumstances*, 35 U. ARK. LITTLE ROCK L. REV. 871 (2013).

5. Melissa T. Lonegrass, *A Second Chance for Innovation—Foreign Inspiration for the Revised Uniform Residential Landlord and Tenant Act*, 35 U. ARK. LITTLE ROCK L. REV. 905 (2013).

6. Lawrence R. McDonough, *Then and Now: the Uniform Residential Landlord and Tenant Act and the Revised Residential Landlord and Tenant Act—Still Bold and Relevant?*, 35 U. ARK. LITTLE ROCK L. REV. 975 (2013).

7. The report is printed in this issue. See Arkansas Non-Legislative Commission on the Study of Landlord-Tenant Law, *Report*, 35 U. ARK. LITTLE ROCK L. REV. 739 (2013).

8. Marshall Prettyman, *Landlord Protection Law Revisited: the Amendments to the Arkansas Residential Landlord-Tenant Act of 2007*, *Ark. Code Ann. §§ 18-17-101 et seq.*, 35 U. ARK. LITTLE ROCK L. REV. 1031 (2013).

9. The other issue was domestic violence.

10. Memorandum from the Joint Editorial Board for Real Property Acts to Uniform Law Commission Scope and Program Committee (June 1, 2010), http://www.uniformlaws.org/shared/docs/residential%20landlord%20and%20tenant/urlta_jeb_urpa_proposal_060110.pdf.

RURLTA language.¹¹ Finally, Cliff McKinney, a partner at Quattlebaum, Grooms, Tull & Burrow PLLC (as well as an adjunct professor here), has written about the current state of “caveat lessee” in Arkansas law.¹²

The symposium had the most attendees of any in the Law School’s history. We hope you find this issue useful.

11. William H. Henning & R. Wilson Freyermuth, *Article 9 and the Characterization and Treatment of Tenant Security Deposits*, 35 U. ARK. LITTLE ROCK L. REV. 999 (2013).

12. Jerald Clifford McKinney, II, *Caveat Who?: A Review of the Landlord/Tenant Relationship in the Context of Injuries and Maintenance Obligations*, 35 U. ARK. LITTLE ROCK L. REV. 1049 (2013).