



Snow Removal: Who is responsible?

A question I receive from many landlord's is whether or not they should be responsible for removing snow from sidewalks, driveways, and common areas on their properties in Pennsylvania. As always, the answer is, "it depends."

Specifically, landowners have a duty to take reasonable steps to keep their property free of hazards to third parties. This includes taking steps such as shoveling snow, laying salt, and/or warning the public about a dangerous condition that may not be noticeable to a pedestrian. Failing to take these steps can result in fines, but arguably more importantly, if a pedestrian injures themselves on the property, the landowner could be held liable for that injury.

Pennsylvania allows local governments to have individual ordinances for when snow needs to be shoveled and cleared. Specifically, each township is free to set their own rules. You can look those rules up at your local township's website, usually under "ordinance" or "regulations". Most townships tend to have a 24 or 48 hour removal ordinance, meaning the snow must be shoveled within 24 or 48 hours of the snow stopping. Also, most townships have a "width requirement" meaning the traversable path must be a certain amount of inches wide. Again, each township is different, but most tend to have the path width set at somewhere between 2 to 3 feet wide.

Since 24 or 48 hours is pretty short notice, some landlord's like to delegate this duty to their tenant via contract, meaning they require the tenant to remove snow from sidewalks and common areas. This is legally acceptable, but I almost never recommend it.

First, just because the duty is delegated to the tenant does not mean the tenant will actually follow through. Landlord's already have enough to handle regarding maintaining a property and checking on snow removal is just another hassle that you don't get paid extra to handle. Second, even if the landlord delegates the duty to the tenant, the landlord would still be responsible for fines and fees from the local township for failure to follow an ordinance. The duties run with the land, not with the occupier. The landlord can try to delegate even those fees and fines under the lease to the tenant, but as always, good luck collecting extra fees.

A better solution? Build it into the rent. Put in the lease that landlord will bill tenant an extra fee during the winter months of November-March for snow removal. It can be a nominal fee, even just \$30/month, but that way you know the job is being handled correctly. You can pocket the fee and shovel yourself or take that fee and pay a third-party contractor to remove the snow. Of course, this is applying in the residential setting. For commercial properties, most landlords build CAM (common area maintenance) expenses into the lease and have the tenant's pay their proportionate share of costs.

Also, the question of liability for a personal injury occurring on property is much more complicated. Just because the lease says the tenant is responsible does not mean the landlord is free of any responsibilities for removal. Landlords would be better served contracting with a third-party for snow removal that way if litigation occurs, the landlord could join the third-party snow removal company as an additional Defendant to push the liability upon that company.

Own residential property and want your snow removal handled correctly? Give us a call. We'll take a look at your lease and assist you in getting your lease drafted properly so you don't have a snow removal issue later.