

Leased Equipment, Theft & Enforcement - Iowa Code Can Provide Help

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How well do you know your County Attorney? Perhaps you will come to know him or her better after reading this article.

If you rent equipment or machinery, it would be unusual if all of your lessees paid for and returned their leased items in a timely manner. Assuming this to be the case, you may be interested in knowing the substantial help the Iowa Code can provide.

Iowa Code §714.1 (2) defines “theft” as follows:

“A person commits theft when the person does any of the following:

...Misappropriates property which the person has in trust, or property of another which the person has in the person’s possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner’s rights in such property, or conceals found property, or appropriates such property to the person’s own use, when the owner of such property is known to the person. Failure by a bailee or lessee of personal property to return the property within seventy-two hours after a time specified in the written agreement of lease or bailment shall be evidence of misappropriation.”

Emphasis added.

This law has been applied to assist lessors when lessees fail to timely return the leased property in question. For example:

1. In *State v. Bugely*, 408 N.W.2d 394 (Iowa App. 1987), the defendant entered into a rental agreement with a car rental agency to rent a car to get to work. The defendant did not return the car when it was to be brought back, so the rental company filed a criminal complaint with the Ames police with regard to the missing car. The defendant was convicted of theft.
2. In *Eggman v. Scurr*, 311 N.W.2d 7 (Iowa 1981), Mr. Eggman entered into a written contract for the lease of an automobile from a leasing company on January 11, 1979. He was to return the vehicle on January 15. As of February 1, the vehicle had not been returned and all efforts to contact the defendant were fruitless. Mr. Eggman was convicted of theft.
3. In *State v. Gates*, 306 N.W.2d 720 (Iowa 1981), the defendant rented two U-Haul trailers in Waterloo. Neither trailer was returned within seventy-two hours after the time specified for return in the rental agreement. The Court said the failure to return the property is not conclusive evidence, but it may be considered in connection with all other evidence in determining whether the State has proved beyond a reasonable doubt whether the defendant is guilty of theft.

Iowa Code section §714.1 (2) is a powerful incentive to lessees to timely return leased property.

To use this law to your benefit, your lease must specify the termination date of the lease agreement, and the return date of the leased property. You must also make reasonable efforts to notify the lessee of the status of the late return. Make certain your Lease Agreements provide a space (for the lessee to complete) stating where the lessee can be reached (phone, email, fax, etc.) to provide you with a means to attempt to contact him or her. It's possible there has been a family emergency, or other event beyond the control of the lessee, which may justify a late return, and your attempt to contact the lessee would discover this.

County Attorneys historically do not appreciate enforcing business arrangements. However, the Code section in question makes it clear that their job includes criminal action against lessees who fail to timely return leased items without justification.

NOTE: The information in this article is intended as educational material and is not intended and should not be used as a substitute or replacement for individual legal advice. Each person should consult a lawyer to apply the law to his or her situation.