CHAPTER 33

Landlord and Tenant Generally

**SECTION 27‑33‑10.** Definitions.

 (1) Domestic servant. —A person using or occupying real estate while serving another as a domestic servant shall be deemed a “domestic servant”;

 (2) Farm laborer. —A person using or occupying real estate while working either as a sharecropper or otherwise as a farm laborer shall be deemed a “farm laborer”;

 (3) Tenant at will. —Every person other than the owner of real estate, excepting a domestic servant and farm laborer, using or occupying real estate without an agreement, either oral or in writing, shall be deemed a “tenant at will”;

 (4) Tenant for a term. —A person other than the owner using or occupying real estate under a written or oral agreement shall be deemed a “tenant for a term”;

 (5) Tenant for years. —A person other than the owner using or occupying real estate under a written agreement for a term of one year or more shall be deemed a “tenant for years”;

 (6) Agricultural renter. —A person renting lands for agricultural purposes shall be deemed an “agricultural renter”;

 (7) Landlord.—”Landlord” shall be construed to include the owner or person in possession or entitled to possession of the real estate used or occupied by the tenant as well as the employer of farm laborers and domestic servants; and

 (8) Tenant.—”Tenant” shall be construed to mean tenant at will, tenant for a term, tenant for years, domestic servant, farm laborer, sharecropper and agricultural renter.

HISTORY: 1962 Code Section 41‑1; 1952 Code Section 41‑1; 1946 (44) 2584.

CROSS REFERENCES

As to venue in matters involving landlord and tenant, see Section 15‑7‑10.

Library References

Landlord and Tenant 1.

Westlaw Topic No. 233.

C.J.S. Landlord and Tenant Sections 1 to 5, 8, 10.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Landlord and Tenant Section 3, Landlord‑Tenant Relationships Not Governed by the Rlta.

S.C. Jur. Landlord and Tenant Section 12, Tenancies for Years and Tenancies for Terms.

S.C. Jur. Landlord and Tenant Section 13, Periodic Tenancies.

S.C. Jur. Landlord and Tenant Section 14, Tenancies at Will.

Forms

Am. Jur. Pl. & Pr. Forms Landlord and Tenant Section 1 , Introductory Comments.

South Carolina Legal and Business Forms Section 14:1 , Legal Principles.

LAW REVIEW AND JOURNAL COMMENTARIES

“Landlord and Tenant in South Carolina,” 1 SC LQ 119 (1948).

Habitability in Slum Leases. 20 S.C. L. Rev. 282.

Landlord and Tenant: Lease and Interdependent Instruments. 24 S.C. L. Rev. 620.

Legal Aspects of Farm Tenancy and Sharecropping in South Carolina. 9 SC LQ 299.

Spitz, Is It Time to Reform Landlord Remedies in South Carolina? 34 S.C. L. Rev. 787 (1983).

NOTES OF DECISIONS

In general 1

Tenant at will 2

1. In general

Where one co‑tenant has ousted the other co‑tenant, and kept them out by force, he is liable as a trespasser for the rental value of the property beyond his ownership share. Parker v. Shecut (S.C. 2002) 349 S.C. 226, 562 S.E.2d 620. Tenancy In Common 28(3)

Phrase “in the event of termination” contemplates some event which at time lease is entered into is not certain to occur. Piedmont Interstate Fair Ass’n v. City of Spartanburg (S.C. 1980) 274 S.C. 462, 264 S.E.2d 926.

Applied in Burnett v. Boukedes (S.C. 1962) 240 S.C. 144, 125 S.E.2d 10.

2. Tenant at will

Even if owner of property on which dog owners lived and dog owners had no formal agreement that created landlord and tenant relationship, dog owners who lived on property without paying any rent to owner were tenants at will. Bruce v. Durney (S.C.App. 2000) 341 S.C. 563, 534 S.E.2d 720, rehearing denied. Landlord And Tenant 704

After termination of a lease, one continuing to occupy the premises, absent a new agreement, express or implied, comes squarely within the definition of a tenant at will. Carson v. Living Word Outreach Ministries, Inc. (S.C.App. 1993) 315 S.C. 64, 431 S.E.2d 615. Landlord And Tenant 707

A tenant was a tenant at will although there was no written or oral agreement between the parties where the tenant remained in possession of the premises and paid monthly rent. Carson v. Living Word Outreach Ministries, Inc. (S.C.App. 1993) 315 S.C. 64, 431 S.E.2d 615. Landlord And Tenant 707

Subsection (3) and what is now Section 27‑35‑40 abrogate the common‑law rule that where a tenant holds over after the expiration of the term provided for in his lease, with the consent of the landlord, a new tenancy arises to which the provisions of the expired lease are applicable. Townsend v. Singleton (S.C. 1971) 257 S.C. 1, 183 S.E.2d 893.

After termination of a lease, one continuing to occupy the premises, absent a new agreement, express or implied, comes squarely within the definition of a tenant at will. Townsend v. Singleton (S.C. 1971) 257 S.C. 1, 183 S.E.2d 893.

Subsection (3) and what are now Sections 27‑35‑40 and 27‑35‑130 make no exception, in case of a tenant holding over, to the provision in what is now Section 27‑35‑110 that a tenancy terminates on the last day of the term. Townsend v. Singleton (S.C. 1971) 257 S.C. 1, 183 S.E.2d 893.

**SECTION 27‑33‑20.** Applicability of certain statutory provisions relating to landlord and tenant.

 The provisions of Chapters 33 to 37, Section 27‑39‑10 and Article 3 of Chapter 39 of this Title, other than Sections 27‑35‑80, 27‑35‑170, 27‑35‑180, 27‑39‑280 and 27‑39‑300, shall not apply to (a) lessees of timber, (b) the user or beneficiary of any easement or (c) the use or occupancy of any land by any person engaged in rendering public utility service for the construction and maintenance of electric power, telephone, telegraph, water or gas lines.

HISTORY: 1962 Code Section 41‑2; 1952 Code Section 41‑2; 1946 (44) 2584.

CROSS REFERENCES

As to venue in matters involving landlord and tenant, see Section 15‑7‑10.

Library References

Landlord and Tenant 3.

Westlaw Topic No. 233.

C.J.S. Landlord and Tenant Sections 7, 342.

**SECTION 27‑33‑30.** Recordation of leases.

 In order to give notice to third persons any lease or agreement for the use or occupancy of real estate shall be recorded in the same manner as a deed of real estate.

HISTORY: 1962 Code Section 41‑4; 1952 Code Section 41‑4; 1946 (44) 2584.

CROSS REFERENCES

As to venue in matters involving landlord and tenant, see Section 15‑7‑10.

Library References

Landlord and Tenant 26.

Westlaw Topic No. 233.

C.J.S. Landlord and Tenant Sections 330, 358 to 359.

RESEARCH REFERENCES

Forms

South Carolina Legal and Business Forms Section 14:1 , Legal Principles.

Treatises and Practice Aids

Restatement (2d) of Property, Don. Trans. Section 31.4, Gift of Donor’s Interest in Land.

NOTES OF DECISIONS

In general 1

1. In general

Construing what are now Sections 27‑35‑10, 27‑35‑20 and 30‑7‑10 together with this section, the recording of a lease or contract between a landlord and tenant for a period not exceeding one year is still unnecessary in order to bind a subsequent purchaser of the property without notice, simply because it need not be in writing. The question of whether a bona fide purchaser without notice is bound by a verbal lease made by the seller where the tenant was not in possession was not decided. Barksdale v. Hinson (S.C. 1948) 212 S.C. 1, 46 S.E.2d 170.

**SECTION 27‑33‑40.** Concurrent jurisdiction of judges and magistrates.

 The judges of the circuit courts and county courts in this State shall have concurrent jurisdiction with and may exercise all of the duties and powers conferred upon magistrates by any provisions of Chapters 33 through 41 of this Title.

HISTORY: 1962 Code Section 41‑5; 1952 Code Section 41‑5; 1951 (47) 221; 1972 (57) 2538.

CROSS REFERENCES

As to venue in matters involving landlord and tenant, see Section 15‑7‑10.

Library References

Landlord and Tenant 180(0.5), 226, 291(6.5).

Westlaw Topic No. 233.

C.J.S. Landlord and Tenant Sections 956 to 957, 966, 971, 1121 to 1122, 1366.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Landlord and Tenant Section 57, The Statutory Procedure.

NOTES OF DECISIONS

In general 1

1. In general

Stated in Baldwin v Baldwin (1954) 224 SC 429, 79 SE2d 459. Wheeler v Hyler (1956) 228 SC 584, 91 SE2d 265.

Although Section 23‑33‑40 gives concurrent jurisdiction to the Circuit Courts and to Magistrates in ejectment proceedings, the Circuit Courts still have appellate jurisdiction over ejectment cases initially heard by a Magistrate, pursuant to Sections 27‑37‑120, 14‑5‑340, and 18‑7‑170. Vacation Time of Hilton Head Island, Inc. v. Kiwi Corp. (S.C.App. 1984) 280 S.C. 232, 312 S.E.2d 20. Justices Of The Peace 141(1)

**SECTION 27‑33‑50.** Financial responsibility of tenant for utilities.

 (A) Unless otherwise agreed in writing, a tenant has sole financial responsibility for gas, electric, water, sewerage, or garbage services provided to the premises the tenant leases, and a landlord is not liable for a tenant’s account.

 (B) An entity or utility providing gas, electric, water, sewerage, or garbage services must not:

 (1) require a landlord to execute an agreement to be responsible for all charges billed to premises leased by a tenant; or

 (2) discontinue or refuse to provide services to the premises the tenant leases based on the fact that the landlord refused to execute an agreement to be responsible for all the charges billed to the tenant leasing that premises.

 (C) This provision does not apply to a landlord whose property is a multi‑unit building consisting of four or more residential units served by a master meter or single connection.

HISTORY: 2002 Act No. 336, Section 3A; 2003 Act No. 63, Section 1.

CROSS REFERENCES

As to venue in matters involving landlord and tenant, see Section 15‑7‑10.

Library References

Electricity 11.1(1), 11.4.

Gas 13(6), 14.6.

Westlaw Topic Nos. 145, 190.

C.J.S. Gas Sections 33, 46 to 49, 51 to 54, 56, 64, 84 to 85.