



QUESTIONS

for the Self Storage Legal Network

Each month SSLN partners Carlos Kaslow and Scott Zucker will select a question from a SSLN subscriber on an important self storage legal issue and provide their best advice on dealing with the problem.

Question: *We have a customer who has rented from us in the past. The former customer is now out of state but wants her friend to rent a space to store some property on her behalf. The customer wants the lease to be executed in the customer's name without the customer being present. We generally require that our tenants come into our office in person with proof of identify to execute the lease. The customer does not want her friend to execute the lease in the friend's name. The customer has asked if the friend can sign the lease in the customer's name if the friend has a Power of Attorney. Are we legally allowed to do this and, if so, should we really be involved in this scenario? We have only dealt with a Power of Attorney for customers who have passed away or are unable to make decisions for themselves.*

Answer: This is a situation that often confronts self storage operators: customers who need to rent a space but are unable to come to the facility to execute the rental agreement and other documents in person. Your former tenant can certainly have a friend (agent) in the area help her move her property into the storage space. You do not want the friend to execute the rental agreement in his or her own name. You want the person whose property will be stored in the rented space to be your tenant.

A person with a valid Power of Attorney can execute a rental agreement on behalf of the person who has granted the power. Powers of Attorney are used for many reasons and there is no requirement that the person executing the power be incapacitated. You should be aware that a Power of Attorney becomes ineffective upon the death of the person who executed it. Once a tenant dies, the person who was granted the Power of Attorney can no longer act on the decedent's behalf.

However, is a Power of Attorney necessary to rent the space? Rather than use a Power of Attorney or other

documents that give the tenant's friend authority to rent the space on her behalf, you could take advantage of technology that allows the tenant to execute the rental agreement and other documents herself without coming to the facility. You could email the rental agreement to the tenant. She can then download the rental agreement, complete it, sign it and return it. The completed and signed rental agreement can be returned by mail but also can be scanned and emailed back to the facility or simply faxed to the facility. It is even possible for you to send the tenant a completed rental agreement, based on information provided by the tenant, that she could sign online. Companies like RPost and DocuSign provide this type of online "electronic signature" service.

Once she completes the rental agreement and arranges for payment (credit card), you could provide her with a gate code. She can provide the gate code and space number to her friend who can move her property into the storage space.

The important legal point here is it is always best to have the rental agreement signed by the person designated in the rental agreement as the "tenant" or "occupant." It is now a rare customer who does not have access to email and the ability to send documents instantly. Even without email, a rental agreement can be mailed to the tenant, completed and mailed back with a check. The friend can move the property into the space once all documents and payments have been completed and returned. There may be situations when it is not possible to have the tenant execute the rental documents. The storage operator will need to determine if it is in the best interest of the company to go outside their normal operating procedures to accommodate such a customer. A repeat customer may be someone you want to accommodate. ❖

The two most important benefits of being a Direct SSA Member:



**Access to the Self Storage Legal Network and
annual subscription to the Self Storage Legal Review newsletter**

For info, call 888-735-3784 x113 or email ssa@selfstorage.org