

## **Tell Mel: This 'idiot' in Charlotte County giving squatters bad name**

Written by  
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Let me preface this column by telling you I'm a landlord. My husband and I have owned rental properties and – knock on wood – we've had some great tenants.

We've also had some nightmare tenants, but nothing as bad as what Clay Cunningham described.

Cunningham owns four rental properties in Charlotte County. When the lease of one of his tenants was up, Cunningham went to the house and found the tenant gone, but another man living there.

Cunningham asked who he was and he told him he was a tenant. He had rented a room from the man who had just moved out.

"I've been here a month. I get my mail here," Cunningham recalled him saying.

"I want you off my property," Cunningham told him. To which the man answered, "Evict me."

"I don't understand why I would have to evict him," Cunningham said. "I don't have a lease with him."

So Cunningham decided to force the man to move by having the utilities shut off.

But he couldn't do that.

Under Florida law, a landlord can't shut off utilities to a unit for nonpayment of rent or to force a resident to leave, said Joan Brown, business service manager for Charlotte County Utilities. Even though Cunningham said the man wasn't a tenant, if the utility workers saw he was living there they wouldn't turn off the water.

Brown said unauthorized residents in rentals became a problem after the housing crisis. Tenants would continue living in houses after foreclosure or would simply move into abandoned houses and utilities couldn't be cut off.

“I can’t turn off the water, but I’m getting nothing for them staying on my property,” Cunningham said. “Why is it not trespassing? Why is it not thievery? I’m paying for these yahoos to live there.”

Cunningham said he called the Charlotte County sheriff and was told he would have to evict the guy. The sheriff’s office closed the case as a civil matter.

It is right about it being civil, said Kevin F. Jursinski, a Fort Myers real estate attorney.

From what I described to him, Jursinski said the landlord needs to take it to court. But Cunningham can’t file for eviction, because he doesn’t have any agreement to rent the property to the squatter. Instead it’s called an ejection, Jursinski said. According to the Florida law, the person being ejected has five days to answer the complaint.

The way Cunningham sees it, the law is on the side of tenants and against the landlords. He’s on the hook for the utilities and he had to hire a lawyer to get the guy out.

Clearly, some tenants can take advantage of landlords. But I don’t agree with Cunningham’s assertion laws favor tenants. I believe it’s an agreement where both sides have rights.

The state provides a brochure with a decent summary of the law and responsibilities of landlords and tenants. It’s available at [800helpfla.com](http://800helpfla.com) or by calling 800-HELP-FLA and requesting a copy by mail.

Even with the balance of power in terms of rights, the potential money loss is uneven because the tenant can inflict hefty financial losses on a landlord. The landlord has to maintain the property, pay taxes on it and, as is Cunningham’s case, keep paying utilities and a lawyer. Cunningham also will have to bear the costs of repairing the property if the squatter did any damage to it.

Cunningham is 68 and his properties are part of his retirement income plan, he said. He can’t afford to lose money on them.

That’s why the next time he found another squatter, just a few weeks later, “I changed the locks and left him a note telling him his stuff was on the curb.” Cunningham said. “I figured I’ll just go to jail before I pay to let these idiots live in my house.”