



MIKE McLELLAND
CRIMINAL DISTRICT ATTORNEY
100 West Mulberry Street Kaufman, Texas 75142

January 1, 2011

Dear Merchant,

All hot checks for rent are usually prosecuted as issuance of bad check (IBC). You must comply with the following for the Hot Check Department to prosecute your check case as a felony theft by check. First, the total amount of the checks must exceed \$1,500.00. If you enter the lease agreement because you are relying on the check being paid immediately by the bank and the check writer occupies the premises, then we may be able to file a charge for theft of service if the check is dishonored by the bank and the first month's rent is also paid with a bad check or not paid at all. An eviction notice must have been given immediately upon receipt of notice that the check has been dishonored by the bank.

Periodic Rent Checks

If the check writer gave you a check on the day the rent was due and the check writer continued to occupy the premises, then we may be able to file charges for theft of service if that check is dishonored by the bank. You must have served the tenant with an eviction notice immediately once you received notice that the check was dishonored by the bank. If the check was given to you in order to halt eviction proceedings, we may be able to file charges for theft of service if the check is dishonored by the bank. The lease must expressly state that occupation of the premises is contingent upon timely payment of the rent and the eviction notice must have been given immediately when rent was not paid, or if the rent was paid by bad check, immediately upon notice of the bank's dishonor of the check. **If you don't give the tenant an eviction notice immediately when the rent is late, then you waive theft action in criminal courts!** You must have withdrawn eviction proceedings because a check was given which you believed would be paid by the bank and the tenant remained in possession of the premises. Copies of your eviction notice and eviction papers must be submitted with your original check (or bank certified copy). **The most important element to be satisfied in order for us to file criminal charges is that the eviction notice must have been served at the first sight that the tenant has not paid in a timely manner!**

If you have further questions, or if you have comments, please call our Hot Check Department at 972-932-4331 extension 1169 or 1171.