

1976 WL 30472 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 25, 1976

\*1 L. L. Henderson  
Sheriff  
County of Newberry  
P. O. Box 247  
Newberry, South Carolina 29108

Dear Sheriff Henderson:

In your letter of January 13, 1976, you inquire as follows: (1) 'After a landlord has had the Magistrate to issue an Order of Ejectment on a tenant who owes a considerable amount of rent in arrears and the Order has been served on the tenant, if the landlord accepts partial payment, is the Order still in effect and as the enforcing officers, could my office eject the tenant?' (2) 'Would a Distress Warrant which has been issued and served on the tenant be affected if the landlord accepts partial payment of the rent due?' (3) 'Could my office proceed under such circumstances to advertise and sell and take the attached chattels?' The thrust of your questions is that whether under the circumstances the landlord by acceptance of partial payment waived his legal right that had accrued. The answer is clearly no. That is to say that since the obligation of the tenant to pay the rent was already owing to the landlord, partial payment does not operate as a waiver of the landlord's right to collect on the balance of the arrearage. To so hold would sorely defeat the solitary effect of the Ejectment and Distraint statutes. See [Wright v. Player, 233 S.C. 223 \(1958\)](#).

I am  
Sincerely,

Herman L. Moore  
Legal Assistant

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