

The State of South Carolina



Office of the Attorney General

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November 13, 1986

Carrol G. Heath, Sheriff
County of Aiken
P. O. Box 462
Aiken, South Carolina 29802-0462

Dear Sheriff Heath:

In a letter to this Office you questioned whether a deputy sheriff must execute all evictions where the tenant refuses to vacate.

Included in the recently-enacted Landlord-Tenant Act is a provision to be codified as Section 27-37-160 which states:

(i)n executing a writ of ejectment, the constable or deputy sheriff shall proceed to the premises, present to the occupants a copy of the writ and give the occupants an opportunity to vacate voluntarily. If the occupants refuse to vacate or the premises appear unoccupied, the constable or deputy sheriff shall announce his identity and purpose. If necessary, the deputy sheriff, but not a constable, may then enter the premises by force, using the least destructive means possible, in order to effectuate the ejectment. Discretion may be exercised by the constable or deputy sheriff in granting a delay in the dispossession of ill or elderly tenants. (Emphasis added.)

Such provision is quite specific in requiring a deputy sheriff to execute an ejectment where force must be used. It is a

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general rule of statutory construction that where the terms of a statute are clear and unambiguous, there is no room for construction and the terms must be provided their literal meaning. McCollum v. Snipes, 213 S.C. 254, 49 S.E.2d 12 (1948). Indeed, there is no safer nor better rule of interpretation than that when language is clear and unambiguous it must be held to mean what it plainly says. Jones v. South Carolina State Highway Department, 247 S.C. 132 at 136, 146 S.E.2d 166 (1966). This Office in an earlier opinion dated January 12, 1979 had recommended that a constable seek the assistance of a deputy sheriff in situations where force is necessary to put a landlord into possession of disputed premises.


If there is anything further, please advise.

Sincerely,


Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions