

1980 WL 120578 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 3, 1980

*1 Honorable Olin I. Blanton, Jr.
Magistrate
District 6
1103 Legion Street
Myrtle Beach, South Carolina 29577

Dear Judge Blanton:

In a letter to this Office you asked whether paintings which belong to third persons which are on a particular tenant's premises are subject to distress by a landlord.

[Section 27-39-210, Code of Laws of South Carolina](#), 1976, permits a landlord to enforce the collection of rent due by distress. The Supreme Court of South Carolina has repeatedly held however that:

The right of a landlord to distrain is subject to the following conditions: (1) distress must be for rent only; (2) when the relation of landlord and tenant exists; (3) when the rent reserved is certain; (4) when the rent is in arrears; and (5) when the property belongs to the tenant in his own right. [Frady v. Smith](#), 247 S.C. 353 at 357, 147 S.E.2d 412 (1966). (Emphasis added).

As to your specific situation as outlined above, please be advised that inasmuch as the paintings on the leased premises are in fact the property of an individual other than the tenant, a fact known to you, in light of the provisions of [Section 27-39-250, Code of Laws of South Carolina](#), 1976, and [Frady v. Smith](#), it would be inappropriate to distrain such paintings which are in fact the property of an individual other than the tenant.

With best wishes, I am

Very truly yours,

Charles H. Richardson
Assistant Attorney General

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