

## Rent to a Minor at Landlord's Risk

In Arizona, an individual under the age of 18 may disaffirm a contractual obligation, including a lease agreement, until he or she reaches the age of majority.

Arizona courts favor this policy because of the presumption that a minor is immature and unable to enter into a contract intelligently.

### *Necessities Of Life*

A major exception involves the "necessities of life." The court determines if an apartment is a necessity for a minor based upon the facts of a particular case.

In *Valencia v. White*, the Arizona Court of Appeals states, "Whether contracts of a minor are for necessities is ultimately a question of fact if there is some reasonable basis upon which the good or services furnished could be considered necessities."

In this case, the court found that an automobile is not a necessity. There is no current Arizona case discussing if an apartment lease is a necessity.

However, a Nebraska case does address this, and an Arizona court could employ the ruling. In *Webster Street Partnership Inc. v. Sheridan*, the Nebraska Supreme Court determined that a lease between a landlord and two minor tenants was not a necessity. The court considered the following factors:

- Is it obvious that the apartment is necessary for the individual's maintenance or existence?
- Does the minor have an actual need for the apartment?
- Is the apartment useful and suitable to satisfy the requirement and not merely beneficial?
- Does the apartment supply the minor's personal needs of body and mind?
- Is the minor emancipated, or could the parents provide suitable housing for the minor?

In this case, the court found that the apartment was not a necessity, as the minors' parents were willing and able to provide suitable housing. Therefore, the minors did not have an actual need for the apartment and could repudiate the lease at any time, as long as they are still under age 18.

Once a minor disaffirms a lease, he or she completely ends the contract's existence. The court does note that if the minor is legally emancipated and the apartment is necessary, the court could hold the minor liable for the lease.

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The court also emphasized that landlords who contract with minors do so at their own peril.

Obviously, the best policy is, do not rent to a minor unless a responsible adult executes or guarantees the lease. However, sometimes renting to a minor can happen unintentionally if a person misrepresents his or her age. If that happens, and the minor signs the lease only to be discovered later, the landlord's best hope for collection is to argue that the lease is a necessity for the minor.

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