

LARCENY OF LEASED OR RENTED PERSONAL PROPERTY

The defendant is charged with larceny of leased or rented personal property, in violation of section 87 of chapter 266 of our General Laws.

In order to prove the defendant guilty of this offense, the Commonwealth must prove the following three things beyond a reasonable doubt:

First: That the defendant leased or rented some personal property;

Second: That the defendant (concealed some or all of that property) (aided or abetted in concealing some or all of that property) (failed or refused to return such property to its owner within 10 days after the lease or rental agreement had expired) (sold, conveyed or pledged some or all of that property without the written consent of its owner); and

Third: That the defendant did so with the intention to place such property beyond the control of its owner.

The words "aid and abet" comprehend all assistance rendered by acts, words of encouragement or support, or presence, actual or constructive, or the readiness to render assistance, should it become necessary, and no particular acts are necessary. See Instructions 4.100 (Accessory Before the Fact) and 4.200 (Joint Venture).

SUPPLEMENTAL INSTRUCTIONS

1. *Failure to return after notice.*

There has been some evidence in this case suggesting that the defendant failed to return the property within 10 days after being notified to do so. If you find that this has been proved, it may be relevant to the issue of the defendant's intent.

The law provides that (if the owner demanded the return of the property in a letter sent by certified or registered mail to the defendant at the address he [she] gave when he [she] entered into the lease or rental agreement) (or) (if the defendant was otherwise aware that the owner had demanded the return of the property), and failed to return the property within 10 days, you are permitted to infer that the defendant intended to place such property beyond the control of the owner. You are not required to draw such an inference of intent, but you may.

Even if there has been contrary evidence, you may still consider a failure to return the property within 10 days of notice as some evidence about the defendant's intent, and you may

weigh it in your deliberations along with all the rest of the evidence on that issue.

2. *Providing false information.* **There has been some evidence in this case suggesting that when the defendant obtained this property, he (she) gave certain erroneous information. If you find that this has been proved, it may be relevant to the issue of the defendant's intent.**

The law provides that if the defendant gave identification or information about his (her) name, address, employer, or some other significant item that was false, misleading or outdated in some significant way, you are permitted to infer that the defendant intended to place the property beyond the control of the owner. You are not required to draw such an inference of intent, but you may.

Even if there has been contrary evidence, you may still consider the giving of such erroneous information or identification as some evidence about the defendant's intent, and you may weigh it in your deliberations along with all the rest

of the evidence on that issue.

NOTES:

1. **Bona fide purchasers.** In order to protect bona fide purchasers, G.L. c. 266, §87 provides that “[i]t shall be a defense to prosecution for conversion of leased or rented property that the defendant was unaware the property belonged to another or that he had a right to acquire or dispose of the property as he did.”
2. **Restitution mandatory.** Upon the defendant’s conviction under § 87, the statute requires the judge, in addition to any sentence imposed, to order restitution to the owner for any financial loss.