

June 15, 1944

Mr. Fred Merkle
State Game Warden
Arizona Game and Fish Commission
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Sir:

We have your letter of June 12, 1944, regarding the lease from Joe T. Kerby and wife, to your Commission, bearing date of 15th of July, 1941.

As heretofore verbally stated to your department, we are of the opinion that this lease has expired and is no longer enforceable, for the following reasons.

The attempt to renew the lease as provided for therein was not made within 30 days prior to the end of the term, and the lessors have not since assented to the renewal.

Section 71-305 Arizona Code 1939, provides:

"When the lessee holds over and retains possession after expiration of the term of the lease without express contract with the owner, such holding over shall not operate to renew the lease for the term of the former lease, but thereafter the tenancy is from month to month."

It would be futile, in our opinion, to seek to enforce in court the former lease. It is therefore recommended that you re-negotiate a new one.

Respectfully,

JOE CONWAY
Attorney General

THOMAS J. CROAFF
Assistant Attorney General

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