

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

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- Question:** I have a unit that is subject to just cause. It is relatively new to me and I want to know if I can just non-renew my tenant since it is not working out.

Answer: Unfortunately, no you cannot non-renew. When a unit is subject to any form of just cause, whether it be local or the Tenant Protection Act, you must have a legal reason to terminate the tenancy. The contract ending is not a valid reason. Generally speaking, you would have to offer them a new lease of similar terms and duration or allow them to roll month to month. You cannot however tell them to leave at the end of the contract.
- Question:** Can I accept rent after serving a notice for an issue other than payment? For example: after service of an unauthorized occupant notice.

Answer: You should always check with a knowledgeable attorney to determine whether you should accept rent or not if the notice served was for something other than payment. Accepting rent after serving a notice may waive the notice.
- Question:** At what point does my property require an onsite resident manager?

Answer: If your property has 16 units or more, you are required to have an on-site "responsible person."
- Question:** A resident at my property was taken to the hospital and passed away. Since the lease requires a 30-day notice, what is the law as far as reimbursement of the deposit?

Answer: When a tenant passes, a month-to-month tenancy is terminated 30 days from the date of the decedent's last rent payment. Therefore, you have 21 days from the termination date to account for the security deposit (assuming that you have regained possession of the unit). If anyone else claims a right to possession, you may need to go through the eviction process. Consult with an attorney if the tenant is a term tenant.
- Question:** I served my resident a 30-Day Notice of Termination of Tenancy on the 15th of the month. My resident says I have to wait until the end of the month to serve the notice, is that correct?

Answer: No. Under California law, either party can serve a Notice of Termination of Tenancy any day of the month. Make sure you do not accept rent beyond the expiration date of the Notice of Termination of Tenancy.
- Question:** I served a 60-day notice that expires on the 15th of the month. How much rent should I accept for the month in which the notice expires?

Answer: You can only accept 15 days of rent for that particular month.
- Question:** I recently purchased a triplex, and the escrow will be closing in a couple of days. The tenants are currently on a month-to-month rental agreement. Do I have to wait until the

end of the month, or can I serve a notice of termination as soon as I take possession of the property?

Answer: You can serve a notice of termination of tenancy any day of the month; it is not required to expire at the end of the month. You are also entitled to rent until the notice expires.

8. **Question:** I have heard five different answers from five different people. Please, tell me what I can legally deduct from my tenant's security deposit.

Answer: Rights and obligations regarding a residential tenants' security deposit are governed by California Civil Code § 1950.5. Allowable uses are cleaning, delinquent rent and damages above ordinary wear and tear. What is considered ordinary "wear and tear" is subject to a variety of opinions by judges. Move-in and move-out records of the condition of the apartment, pictures, receipts and opinions from those who did the work can establish damage beyond ordinary wear and tear.

9. **Question:** I recently received an application from a young married couple. He is twenty but she is only seventeen. I told her she was too young to sign the rental agreement and he had to qualify on his own even though she was working. She said because she was married, she was qualified to sign. I never heard of this law. Is she right?

Answer: California recognizes an individual's right to enter into binding contracts if they are eighteen years of age or older, in active duty in the military, married, or are emancipated by order of the court. You therefore should treat her the same way as you would any other adult applicant.

10. **Question:** A couple recently applied for one of our vacant units. They have jobs but do not quite qualify for the unit (they need to make three times the amount of the rent). They said that his father would be willing to co-sign as a guarantor in order to qualify. How should I work this arrangement on the lease?

Answer: Use a separate, well drafted guaranty form.

11. **Question:** One of my two tenants on the lease moved out due to a job transfer. The remaining tenant would like to stay and pay the entire amount. Do I need to write up a new lease or simply prepare an addendum stating the remaining tenant is solely responsible?

Answer: You can amend the lease to remove the vacating tenant or keep the current lease in place without amendment (in which case the vacating resident may remain rent responsible) or terminate the existing lease and enter into a new lease with the remaining resident.

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