

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

Kimball, Tirey & St. John LLP

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1. Question: What is the code section pertaining to the tenant's obligation to pay rent subsequent to a thirty-day notice?

Answer: California Civil Code 1946 requires the tenant to serve a thirty-day notice or a landlord to serve either a thirty-day or a sixty-day notice to terminate the tenancy. The rent is owed until the lease terminates. Remember that landlords cannot serve a thirty-day or a sixty-day notice if the property requires just cause to terminate.

2. Question: Several prospective tenants have inquired about renting an apartment for a month or two. The high turnovers could be detrimental to the units and will create a lot of work for us in terms of doing paperwork and cleaning. Are there any rules that require a tenant to rent a minimum amount of time?

Answer: There are no state laws requiring you to rent month-to-month or a minimum or maximum amount of time. Many landlords require six-month or one-year leases. There may be a local law that creates such an obligation.

3. Question: A tenant reported a broken refrigerator on Monday, 10 in the morning. We replaced the refrigerator on Wednesday, at 6 in the evening in the same week. Now, the tenants want us to pay for the spoiled food. Should we?

Answer: You would only be liable if the tenant could prove you were negligent in maintaining, purchasing or repairing the refrigerator. Landlords are not guarantors or insurers of the tenant's personal property.

4. Question: One of our clients owns an apartment building that we manage. He wants to rent some storage rooms on the property. If he does rent the rooms, would the unlawful detainer process have to be followed if the renter did not pay the rent? Or do these units have the same rules as storage companies?

Answer: Yes, he would need to follow the unlawful detainer process unless the unit is in a "self-service storage facility" as (as defined in California Business & Professions Code 21701(a)).

5. Question: One of our tenant's dogs is constantly barking and growling at anyone who passes by their apartment. It has scared many of the other residents and they have complained numerous times. I have explained that the lease allows pets. What can I do?

Answer: If the dog is disturbing other residents and is not being properly restrained, it may be a violation of your lease if it contains a clause requiring tenants to refrain from unreasonable annoyances or disturbances. If this is the case, you could enforce the lease through a notice to perform or quit. It is also useful to have pet rules that spell out acceptable and unacceptable behaviors.

6. Question: I have been a resident manager for over four years and would like to know what a manager can do other than evict when a tenant continues to cause disturbances, e. g. loud music, singing, throwing cigarettes over the patio, etc...

Answer: The threat of eviction sometimes is enough to convince a tenant to respect the quiet enjoyment of the neighboring property. Calling the police for extraordinary disturbances may also serve to quiet down an unruly tenant. If all else fails, you may consider eviction before other residents decide to move.

7. Question: I agreed to allow a resident to move in even though he could not pay the full security deposit. He was supposed to pay one third of the deposit each month. He made the first two payments but has now failed to make the third and final installment. What type of notice should I use?

Answer: The law provides that in the event of a breach of the lease other than non-payment of rent, a three-day notice to perform conditions and/or covenants or quit be utilized. Like a three-day notice to pay rent or quit, this notice only allows the residents three days to comply or be subject to unlawful detainer litigation.

8. Question: I have a tenant who never pays his rent until he receives a three-day notice. We normally serve notices on the eighth of the month even though the rent is due on the first. He is on a one-year lease and I don't know my legal rights.

Answer: You can try serving him with a three-day notice to pay rent or quit earlier than the eighth of the month. If he fails to make payment within the three-day period you have the right to refuse the rent and commence eviction proceedings.

9. Question: One of our tenants has a guest who has been verbally abusive to me whenever I ask him who he is visiting. We have a large apartment community with many amenities and we need to be careful that complete strangers are not using our facilities. What can I do?

Answer: A tenant is responsible for the conduct of his guests. Rude conduct and behavior for enforcing reasonable rules may lead to your decision to not renew the tenant's lease when it expires unless the property is subject to just cause. If it continues or escalates to a major disturbance, an eviction can be filed.

10. Question: I have a tenant who always "races" his car in the parking area. We have families with small children and a posted five mile per hour speed limit. What can I do to make him stop?

Answer: Creating safety hazards on the premises in a continuous manner may be good grounds for eviction based upon the nuisance activity. Violating the speed limit of the property should permit you to issue lease violations or warnings. If the reckless manner in which he operates his vehicle continues after warnings, a three-day notice to perform covenant or quit may be served.

11. Question: I have a tenant who left her window open when it rained causing water damage to the floor. She said she did not have to pay for the damage because we have insurance for this type of thing, and we did not lose anything. What should I tell her?

Answer: Your insurance has nothing to do with a tenant's responsibility for negligence. If your insurance paid for the damage, they would have the right to be reimbursed by the tenant who caused the water damage. You would also be able to recover the deductible you paid. If the tenant has renter's insurance, they may be covered for this type of loss.

12. Question: We had to evict a real troublemaker recently, but he keeps coming back to the property to use the swimming pool and spa. He is not anyone's guest and some of the residents are frightened of him. What should I do?

Answer: Calling the police for a criminal trespass and disturbance of the peace is the first recommended action. It is also recommended to change the locks of the property and the pool in order to limit the ability of the person to access the property.

13. Question: I have a suspicion that one of our tenants falsified his application by giving me a different name and social security number than his own. If I can prove this, what are my rights? I have a six-month lease and he just moved in.

Answer: If you could prove the falsification and you would not have rented to him, had you known the true set of facts, the lease would be deemed based upon fraud and set aside. You could bring an unlawful detainer (eviction) lawsuit to regain possession of the premises.

14. Question: My evicted tenant left the property voluntarily three days before the sheriff was scheduled to do the lock-out. Is it wise to keep the appointment or should I just cancel?

Answer: In some cases, it only appears that the tenant has vacated voluntarily. However, possession can be granted by the tenant affirmatively saying they vacated or by a Sheriff lockout. A wrong guess could lead to problems. Many property managers elect to meet the sheriff for the official lock-out. Some property managers decide on a case-by-case basis whether or not to take possession prior to the sheriff's arrival.

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