

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

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1. Question:

Do I always have to give written notice to our resident before making a repair? They called yesterday and we simply made an appointment for the plumber to meet them at the property next week.

Answer:

The notice is not tied to the repair but to the entry of the unit. Normally, you would have to give a written 24-hour notice, but if the tenant and the landlord orally agree to an entry to make repairs or supply services for a specific date and time, and the entry is within one week from the date of the agreement, no written notice is required. Also, in cases of emergency or abandonment, the landlord is not required to give written notice.

2. Question:

Can a resident legally drink alcohol in the outdoor common areas of an apartment community?

Answer:

Landlords have the right to restrict the drinking of alcohol in the common areas of the premises.

3. Question:

My tenant vacated and has damaged the unit more than the security deposit will cover. The tenant had a co-signer on the agreement. I have written the tenant and co-signer with no response after 30 days. Do I file a small claims action against both the tenant and the co-signer or should they be separate lawsuits?

Answer:

You can file against both of them in the same small claims court suit.

4. Question:

This month's rent check from a tenant had a second name printed below the tenant's name on the upper left corner of the check. If I cash the check for this month's rent, am I changing the terms of tenancy?

Answer:

The mere fact that another person is listed on the check does not change the terms of the tenancy. You should inquire about the other person or find other ways to determine if there is an unauthorized occupant, and if so, either have the extra person apply for residency or serve a 3-Day Notice to Perform Covenants or Quit.

5. Question:

I am considering selling a duplex I own. Both sides are rented under one-year leases. A potential buyer said he would need to move into one side of the unit and could not wait for the lease to expire. If there is a sale, doesn't that terminate any lease I have with the tenants?

Answer:

A voluntary sale of leased property does not terminate the rental agreement or lease; the new owner steps into the shoes of the former owner and has the same rights and obligations of the former owner.

6. Question:

One of our single tenants who was renting a small one-bedroom unit recently died. There are still three months remaining on his lease. What should I do with the security deposit?

Answer:

Generally, a tenancy for a specified term does not terminate on the death of either the landlord or the tenant. Once the executor or administrator of the decedent's estate returns possession, you should account for the use of the deposit and direct the accounting to the administrator or executor.

7. Question:

What is a request for a reasonable accommodation?

Answer:

A reasonable accommodation is a change or exception to the property's rules, policies, practices or services that is necessary to afford a person with a disability full and equal use and enjoyment of the rental property. Examples include, but are not limited to, allowing an assistance animal on a no pet property or permitting a co-signor when there is a no co-signor policy.

8. Question:

I understand that if a building contains 16 or more units, there must be a resident manager. I have given some responsibilities to an on-site maintenance person, but I do not call him a resident manager. Does this situation comply with the law?

Answer:

The California Administrative Code requires that a building containing 16 or more units on a parcel must have a person who lives on site and is responsible for representing the owner of the property. The person does not, however, have to be called a "resident manager."

9. Question:

How can we enforce the entry rules clause in our lease? One of our residents is refusing to show the rental unit to a prospective purchaser of the building.

Answer:

California's Civil Code specifically requires residential tenants to allow the landlord to show the rental unit to prospective purchasers and their agents. Failure to comply could lead to an action for unlawful detainer after service of a 3-Day Notice to Perform or Quit if the resident refused to give reasonable dates and times for the entry. Make sure that you are following your obligations under Civil Code 1954 by providing properly written notice so that you are able to enforce those provisions.

10. Question:

I have a tenant who is driving everyone in the apartment complex nuts. He plays his stereo and television all day and all night and keeps everyone up. We call the police constantly, but they can only do so much. I want to evict him, but he signed a one-year lease. None of the notices I have make sense in this situation. What can I do to get this noisy tenant out?

Answer:

If the tenant is causing major and continual disturbances to the quiet enjoyment of the neighboring property and it is severe enough, the court could allow you to evict the tenant after service of a 3-Day Notice to Vacate. This notice does not allow the tenant to cure anything. Writing warning letters and documenting the disturbances can bolster your case if the tenant does not stay quiet. Although not legally required, you will likely want the tenants to appear as witnesses to also establish your case because noise complaints cases are better when other tenants appear in court to testify.

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