

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

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1. Question:

Is a new owner subject to the pet policy of a previous owner?

Answer:

Yes, but if the lease is a month-to-month agreement, it can be changed by properly serving a 30-day notice of change of terms of tenancy on the tenant.

2. Question:

What is the best way to handle the 31-day month? When a tenant moves in mid-month, is it best to prorate the remaining days until the 31st or is it best to ignore the 31st day and consider all months to be 30 days?

Answer:

There is no specific law on point so if your lease doesn't address this issue, most judges use a 30-day month to calculate daily rent notwithstanding the number of days in the month.

3. Question:

We have a tenant who has been incarcerated. Her aunt is coming by to remove her personal belongings from the unit before the tenant's 30-day notice expires. Does the tenant still owe rent for the remainder of the days left on the notice to vacate even though the unit key has been returned to us?

Answer:

Yes, unless you are able to relet the premises before then.

4. Question:

What should I do if I suspect drugs are being sold out of one of our apartments?

Answer:

Call the police and report the incident. Ask the police for further direction. Document all of the calls and what you said, did and observed. If you can prove illegal activity, commence an unlawful detainer action.

5. Question:

If a resident dies and we discover the body, should we call the police first or a family member?

Answer:

Call the police and give them the names and addresses of the family members. Wait for further instructions from the police.

6. Question:

What happens if we rent to someone who is under 18 and is not an emancipated minor?

Answer:

The lease is voidable because the tenant did not have legal capacity to legally enter into the agreement.

7. Question:

Where do I get the lead paint pamphlets?

Answer:

The Environmental Protection Services (EPA) has pamphlets available at

[http://www2.epa.gov/sites/production/files/2013-](http://www2.epa.gov/sites/production/files/2013-09/documents/lead_in_your_home_brochure_land_b_w_508.pdf)

[09/documents/lead_in_your_home_brochure_land_b_w_508.pdf](http://www2.epa.gov/sites/production/files/2013-09/documents/lead_in_your_home_brochure_land_b_w_508.pdf). The lead disclosure form is available online at https://www.epa.gov/sites/production/files/documents/lesr_eng.pdf.

Tenants should be requested to sign the disclosure form indicating that they have received the pamphlet and any reports. The signed disclosure forms should be retained for at least 3 years as proof of compliance.

8. Question:

What is a prejudgment claim? When should it be used?

Answer:

A prejudgment claim is a document that can be filed along with the summons and complaint for unlawful detainer. It requires that all persons who are claiming a right of possession to the subject property to file a response and they will then be added as additional parties (defendants) to the eviction lawsuit.

9. Question:

What kinds of changes to the rental agreement require the “change of terms” notice?

Answer:

A material change to a month-to-month tenancy requires a written Notice of Change of Terms of Tenancy. Typically the notice will be a 30 Day Notice of Change of Terms of Tenancy, although in some situations, longer notice may be required.

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