

Kimball, Tiry & St. John LLP

Landlord/Tenant Questions & Answers

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1. **Question:** If we serve a three-day notice and the tenant decides to move out, is the tenant responsible to pay the monthly rent until the apartment is leased?

Answer: So long as you attempt to relet the premises, the tenant is still liable for the rent until the lease expires or the apartment is relet, whichever occurs first even if he vacates pursuant to a three-day notice to perform or quit.

2. **Question:** I have a tenant who decided not to move in after signing a six-month lease and leaving a deposit. Can I hold her to the lease agreement that she signed?

Answer: Once the tenant has signed the lease, he/she is bound by its terms and must pay rent until it expires or the premises are relet, whichever occurs first.

3. **Question:** If you give residents a sixty-day notice of termination of tenancy and they do not pay their rent for that month, is it okay to give them a three-day notice to pay or quit? The three-day notice does not void the sixty-day notice, does it?

Answer: You can serve them with a three-day notice to pay rent or quit, and if they fail to comply, start the unlawful detainer action. Just make sure you do not ask for rent that goes beyond the sixty-day notice period.

4. **Question:** I would be interested in knowing what to do when a resident is demanding a repair be made inside of their apartment, but at the same time is demanding that none of the on-site maintenance staff complete the repair. Do we hire an outside vendor or must the resident allow the staff that is available to complete the repair?

Answer: You should find out the reason the resident does not want on-site staff to do the repair. You have the right to choose who should do the repairs for your apartment units.

5. **Question:** One of my tenant's sons just turned 18 years old. Should I obtain an application from the son, and add him to the rental agreement?

Answer: You should have everyone 18 years of age or older fill out an application and sign the rental agreement.

6. **Question:** I had a tenant move out several months ago. I returned \$600.00 of his \$1000.00 deposit. He disputes all but \$50.00 of the deductions and has threatened to sue me. He also has not cashed the refund check. How long does he have to sue me?

Answer: In California, the statute of limitations determines the time that you must bring suit to legally enforce a claim. For written agreements, it is four years from the time of the breach. For oral agreements, the statute of limitations is two years from the time of the breach.

7. **Question:** I rented to a married couple two years ago and now the wife has moved out and filed for divorce. The husband is still living in the unit. The wife is demanding her portion of the security deposit back since she no longer lives there. What should I do?

Answer: California law does not require that the owner or manager account for the use of the security deposit until the rental unit is vacant and the manager retakes possession. At that time, the manager has 21 days to account for the use of the deposit to any named tenants.

8. **Question:** I have returned the balance of the security deposit to a former tenant after deducting cleaning charges and insufficient check bank charges. The former tenant claims that I cannot legally deduct the bank charges from the security deposit because that deduction was not specifically stated in the lease. What are my rights?

Answer: California law allows for the use of the security deposit to include other charges than just cleaning, damage and unpaid rent. There is no legal requirement that they must be specified in the rental agreement in order to be enforced by a court.

9. **Question:** Our tenant gave us a thirty-day written notice to terminate her tenancy. She moved out 10 days after serving the notice and claims she only owes rent up to the day she left.

Answer: She is liable up the date the thirty-day notice expires or you relet the premises, whichever occurs first, but only if you first attempt to find a new resident.

10. **Question:** What constitutes a guest/visitor? I have a resident who left town for 10 days, said his daughter would stop by periodically to water the plants. The next thing I know the daughter's boyfriend is staying in the apartment with periodic visits from the daughter. I called the resident and asked him if he knew someone was staying in his apartment. He stated it was his daughter's boyfriend and he is his guest.

Answer: Unless your lease states how long a guest can stay until they become a resident, you have to rely upon circumstantial evidence, such as receiving mail at the unit, going to and from work on a daily basis, and asking for repairs. If you are month-to-month you can also serve a 30 or 60 day notice without cause unless you are in a just cause rent controlled jurisdiction.

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