

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

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1. Question:

A tenant gave a 30-day notice of move out on the 10th of the month and turned in his keys to the owner 5 days later on the 15th. Is he still liable for the balance of the rent owed?

Answer:

Yes, the tenant still owes for the 30-day notice period, unless the landlord is able to relet the premises before then. The landlord has to make a diligent effort to relet.

2. Question:

We have served our tenant a 60-day notice of termination of tenancy; however they have quit paying the rent. Now we are preparing to send a 3-day notice to pay rent or quit. What is the next step if they do not pay?

Answer:

If the tenant does not comply with the 3-day notice by paying the rent, you can commence eviction procedures. If the rent owed is paid, the 60-day notice is still valid unless you asked for rent that goes beyond the 60-day notice period.

3. Question:

Our tenants were supposed to move out in two weeks. However, the house they were moving into is not completed and they need to stay for another fifteen days. I have no problem with this, but my question to you is what if they do not vacate on time?

Answer:

You should have them sign an extension of their lease so if they fail to vacate you can immediately proceed with an action for unlawful detainer.

4. Question:

When you return a security deposit disposition to the vacating tenant, what is the statute of limitations if they do not agree with the deductions and wish to sue in small claims court?

Answer:

If your rental or lease agreement was in writing, the statute of limitations is four years. If the agreement was verbal, it is two years. The time starts to run from the date of the alleged breach.

5. Question:

My renter was backing downstairs carrying a 38-pound bag of clothes and fell and broke her wrist. Can I be sued and a judgment obtained against me?

Answer:

You would only be liable if you were negligent in the way you maintained the stairs and your negligence was a proximate cause of the injury. You should notify your insurance carrier as soon as possible.

6. Question:

Our window was broken by a golf ball hit by the tenant of a neighboring property. They admitted they owed me for a new window but moved away before I could collect on it. Is the owner of the property responsible because it was their tenant?

Answer:

The owner of rental property is not normally responsible for the unforeseeable acts of their tenant. In order for the owner to be liable, you would have to prove that the owner knew or should have known his tenant would have caused physical damage to your property, and the owner failed to take reasonable steps to protect your property from harm.

7. Question:

One of our residents admitted to breaking a window in his unit. Our management company wants to make the repair and deduct it from his security deposit. Please give us your opinion if our management company is using proper procedures.

Answer:

A resident is liable for damage to the unit caused by any resident or their guests and invitees. The owner/manager, however, can make the repairs and require the resident to reimburse them for the costs of repair. The owner/manager can either deduct the amount from the resident's security deposit or serve the resident with a 3-day notice to pay for the repair. If the resident fails to do so within 3 days, the eviction process may begin.

8. Question:

I have a resident who was just put in a detoxification clinic. Her sister wants me to allow her inside to remove all of her personal possessions and move her out because she says the resident is not planning on returning. What can I do to protect myself from being sued by the resident because someone took her belongings and management re-rented the unit?

Answer:

Under California law, you do not have the legal right to allow the sister inside to collect your resident's personal items without the consent of the resident. Therefore, any family member who wants inside should provide written authorization from the resident or power of attorney allowing them to enter the unit. Make sure the signatures match or require a notarized statement and check identification. Likewise, if the resident is intending to vacate the unit that should also clearly be stated in writing by the resident.

9. Question:

I am an on-site manager and I am upset because I was tape-recorded without my knowledge or permission by someone who was "shopping" the apartment community. Is this legal?

Answer:

The law protects individuals from being secretly tape-recorded during conversations in a situation where there is a reasonable expectation of privacy. There are civil, as well as criminal, penalties for violation of the rights of privacy through secret tape recordings. However, there is no violation in cases where the expectation of privacy does not exist, such as telephone answering devices.

10. Question:

My understanding is that unlawful detainer actions remove the tenant from a specific rental unit. My contention is that the tenant is also not allowed anywhere on the premises of the common areas of the premises after an eviction. Frequently the evicted tenant hangs around the premises and causes additional problems out of spite. What can be done and what are my legal rights as owner?

Answer:

If an evicted tenant returns to the common area of the rental property without invitation by any of the current residents, or without your permission or consent, he or she is trespassing. The common area of the apartment community is under the direct control of the owner and manager, and anyone present without authority or consent is guilty of trespass.

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