

Kimball, Tirey & 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: The tenant is still liable for the rent until the lease expires, minus amounts that the landlord could collect by making reasonable efforts to rent the unit to a replacement tenant, even if they vacate pursuant to a three-day notice to perform or quit.

2. 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.

3. 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 but there could be reasonable requests made to facilitate on-site staff gaining access.

4. 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.

5. 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.

6. 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. If the bank charge was for a NSF check, California Civil Code §1719 expressly permits a service charge not to exceed \$25.00 for the first returned check and \$35.00 for each subsequent returned check. If you cannot resolve the issue, it will be up to the local small claims judge if it is reasonable.

7. 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, minus amounts that you can collect by making reasonable efforts to rent the unit to a replacement tenant. However, note that a person terminating a tenancy based upon domestic violence is only liable for 14 days of rent.

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