

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

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1. Question: Are email communications between tenant and landlord admissible in court?

Answer: Yes, emails can be admitted into evidence (if all rules of evidence are met), but email should not be used to serve notices (other than as specifically allowed by law). Email is not recognized as a valid form of service generally speaking.

2. Question: When a month-to-month resident decides to vacate without any notice, do the owners have the right to charge for thirty days after the move-out to comply with their month-to-month agreement?

Answer: Yes, you can charge up to the time the premises are relet or thirty days from the date of their departure, whichever occurs first, so long as you make diligent attempts to relet the property.

3. Question: Our tenant gave a Thirty Day Notice of Termination, intending to move out on the 10th of next month. Since the rent was due on the first of the month, can we require the tenant to have given thirty days' notice on the first of the month?

Answer: Once you are on a month-to-month tenancy, either party can terminate it by serving a Thirty Day Notice at any time. They are, however, responsible for the rent up to the date the Thirty Day Notice expires, so they would owe pro rata rent for the following month. This would mean you could only accept 10 days of rent from next month.

4. Question: I had to go through an eviction to regain possession of one of my rentals. I also received a judgment for the rent, court costs and my attorneys' fees. How can I collect on this judgment? Do I have to go back to court?

Answer: The law provides for a variety of ways to collect the judgment. Recording an abstract of judgment, wage garnishments, bank levies, attachment of personal property and judgment debtor examinations are formal ways to collect monetary judgments. Receiving accurate information on the rental application allows optimal opportunity to collect.

5. Question: One of my tenants vacated the property and left his roommate behind. Both signed the rental agreement and now the tenant who vacated is demanding his share of the security deposit be returned to him. Is he right? What should I do?

Answer: You are not required to return or account for the use of the security deposit until you regain possession of the property after all of the tenants have vacated. California requires the deposit be accounted for in writing and sent to the last known address of the tenants no later than 21 days following the return of possession unless the lease requires an earlier time frame. The tenant who vacated early should work out an arrangement with his former roommate. You are under no obligation to account for the deposit.

6. Question: A tenant has left a lot of personal property after vacating. How do I know the value of the items left behind?

Answer: You can call a third-party appraiser. Alternatively, you can research what comparable items sell for in the community. Research the replacement value, not the cost of purchasing a new item. Remember if the total value is over \$700, the property should be sold at auction.

7. Question: My company policy is to have the computer system print notices to pay rent or quit that just state who is to receive payment, but there is no blue ink signature. Does this make them invalid?

Answer: California law requires that a person be named as agent for receiving payment in person on the notice, the address, telephone number, and hours/days of availability of this person be provided, but there is no requirement that this person sign the notice. However, it is a good idea that the notice be signed to give it the personal touch and show the tenant that the information has been reviewed and is accurate.

8. Question: I have a resident that has not been paying for their parking space. I sent them several notices and letters. Finally, I had the vehicle towed. I feel that I gave them ample warning. Should it have been handled differently?

Answer: It would depend on what the lease stated and what their rights were. If it was made clear that the vehicle was no longer authorized to be on the property due to non-payment, you could utilize California Vehicle Code § 22658 which authorizes property owners and managers to remove unauthorized or abandoned vehicles from private property provided that specific conditions exist, and certain procedures are followed.

9. Question: Can we insist that a tenant produce insurance showing that an ESA animal is covered on their policy if the animal happens to bite? Can this be a requirement for pets and ESA animals?

Answer: Generally, you can ask assistance animals to meet the same standards that you require for all animals on your properties, except you cannot require or demand they obtain insurance. If the animal's behavior becomes problematic (e.g., biting), the owner may be held liable to cover repair and damage costs. You might seek an agreement for insurance or other mitigating assurances, but this should be done with the guidance of a fair housing attorney.

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