

Kimball, Tirey & St. John LLP

Landlord/Tenant Questions & Answers

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June 2026

1. Question: I was told by my tenant that my notice of increase was bad because it was less than 90 days and was over 10%. I thought it was 60 days for rent increases. Is my tenant correct?

Answer: Yes, the tenant is correct in this instance. Beginning in 2020, the Civil Code changed to increase the amount of time from 60 days to at least 90 days for a rent increase over 10% from the lowest rent in the last 12 months. If you mail out the increase within the state of California, you need to add 5 days for mailing for a total of at least 95 days' notice.

2. Question: In our lease agreements, we require tenants to pay their rent on the first of the month. If the first falls on a holiday, such as Labor Day, do you have to give the tenants until midnight on the second to pay the rent or can you still enforce the late fee as of midnight on the first?

Answer: Rent is not delinquent until the due date has passed in its entirety. However, the due date cannot fall on a weekend or holiday. If the first is a weekend or holiday, the due date is not until the next business day, and the rent is not delinquent until that business day has expired.

3. Question: I own a fourplex. Unit B has two cars, and one is broken down. What kind of demands can I place on B about the broken-down vehicle?

Answer: You can create a lease term by requiring all vehicles to be in operable condition or they will be towed. To put this into place, you need to either serve a Thirty-Day Notice of Change of Terms to a month-to-month agreement or wait until the lease expires and have the new condition in the renewal lease. If your property is in a just cause area, you may not be able to enforce the new provision depending on the local ordinance or require the tenant to sign the renewal lease with the new provision. If there is a provision in the lease requiring the tenant's vehicle(s) to be in operable condition, you may demand compliance with the lease provision.

4. Question: I rented a condominium unit to a couple on a year's lease. After one month, they had to move out to take a job out of state. My daughter wants to move in and that's all right, but she will not be paying me rent. Does the tenant still owe me the rent for the lease?

Answer: Under California law, a tenant who vacates early is liable for the remainder of the lease period up until the time the premises are re-rented, re-occupied, or removed from the rental market. You also have a duty to attempt to re-rent the unit to continue to hold the former tenant rent responsible, so if you are allowing your daughter to move in, you would not be upholding that duty. When your daughter moves in, the tenant is relieved from further payment.

5. Question: Can I bill my tenant for excessive water usage if I can prove they neglected to fix two leaky faucets for over three months?

Answer: Most rental agreements and California law require the tenant to maintain the premises in good condition and repair. Failure to meet their obligations would therefore be a breach of the lease and you should be able to recover all losses suffered, provided you have sufficient proof. An attorney can assist in evaluating whether or not you have sufficient proof to do so.

6. Question: New tenants moved in last month. The wife now wants me to take her name off the lease because she is moving out and getting a divorce. They agreed to a one-year lease. What can I do?

Answer: You are not legally required to release the wife from liability under the lease. If you do, and the husband is unable to pay or declares bankruptcy, you would not be able to pursue your losses from the wife. After the initial term lease is over, the wife is no longer liable. Some landlords choose to condition removal of one of the leaseholders on the remaining leaseholders proving they meet your income criteria on their own, but this is not required.

7. Question: What can you do about a tenant being cruel to an animal such as keeping a large dog in small quarters outside with the dog crying in the rain, cold and heat?

Answer: You have a right to report any criminal or inhumane acts occurring on the rental property. If the mistreatment constitutes a crime, you could evict the tenant for carrying on illegal activity on the premises so long as you have sufficient evidence of the illegal activity.

8. Question: Is a phone text an official written notice for a 30-Day Notice?

Answer: No, a text would not be a lawful method of service. A 30-Day Notice must follow statutory requirements and should be served in the same manner as a Notice to Pay Rent or Quit: personal, sub-service or post and mail.

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