

Legal Q & A by Dennis P. Block, Attorney

Question 1:

I need access to a tenant's apartment as his unit provides access to a central plumbing fixture. I have written him a letter asking permission to do these repairs along with three different phone calls. He is yet to respond and I am desperate to make these repairs. What can I do to gain access?

Answer 1:

You do not need the permission of your tenant. You need to serve a notice that you will be entering the unit. If you cannot hand this notice to the tenant, then post it on his door at least 24 hours in advance. You must state the date, time and reason. The access should be requested for normal business hours, Monday through Friday, 9:00 AM to 5:00 PM. At the requested time, if the tenant is not there, you have the right to use your passkey to gain entrance. If you do not have a key, you may engage the services of a locksmith to open the door.

Question 2:

I increased the rent to my tenant last October. It was a \$300 increase, from \$1,450 to \$1,750. Can I give her another \$100 increase for August or do I have to wait until October? My property is not under rent control.

Answer 2:

There are no limitations to the amount of times that you can raise the rent. If you increase the rent more than 10% in any twelve-month period, then a 60-day notice is required.

Question 3:

I served my tenant with a "3-Day Notice to Pay the Rent or Move Out". The tenant came with a partial payment and told me that I had to accept it since it was within the 3-day period. I took the partial payment but now I question whether I did have to accept this payment.

Answer 3:

A landlord does not have to accept a partial payment in rent. If the tenant does not pay the full amount, within the 3-day period, an unlawful detainer can proceed. Since you accepted the partial payment, you should immediately serve a 3-day notice for the amount currently owed.

Question 4:

I have a house, which is currently for sale. Tenants are currently occupying the premises. They have a lease, which expires March 31, 2008. I have not kept up with the mortgage payments for several months now. I might have a buyer who intends to occupy the home. How do I get the tenants out prior to the end of their lease? The tenants are aware that the house is being sold because they are allowing viewing of the home. If the sale does not go through, it will be foreclosed on and I do not want the tenants caught in the middle.

Answer 4:

You are in a tough position. You do not have the power to unilaterally revoke a lease, even under these circumstances. You should explain to the tenants that if the house foreclosed, their lease would be extinguished by operation of law. As such, it would be in their best interest to take a rent reduction or a cash settlement to move at the time of sale.

Question 5:

Can I charge rent on the basis of how many persons will be occupying the premises? One applicant told me that this is discrimination.

Answer 5:

If your policy is consistent for all applicants, this would not be considered discrimination. A landlord can set the rental amount. In this case you recognize the fact that more utilities will be used and that there will be more wear and tear on the premises. It is reasonable to charge more rent for more persons.

Question 6:

I just bought an apartment unit in a rent controlled area. I sent letters to the tenants advising them that I am the new owner, with my phone number and an address as to where to pay the rent. One tenant refuses to pay me the rent until I show him the deed to the property. I knew I was going to have trouble with this tenant as he had a "big mouth" during the inspection. Do I need to show him the deed.

Answer 6:

You have no obligation to show him the deed. Serve the tenant a 3-Day Notice to Pay Rent or Move Out. If the rent is not paid timely, immediately commence the eviction action.

Question 7:

I am planning to buy a duplex in the City of Los Angeles. I intend to move into one of the units and to continue leasing the other unit.

Currently both units are occupied. What is the procedure to have one of the tenants vacate. The unit I want to occupy has a family who has been there for over eight years.

Answer 7:

An application needs to be filed and approved by the Rent Stabilization for the City of Los Angeles. Relocation money would have to be paid to the tenant. Currently that sum is \$17,080. Since your tenant has been in the unit for over one year, a 60-day notice to quit would need to be served on your tenant, once the application is approved.

Question 8:

I have an unlawful detainer trial that will be coming up in a couple of weeks. My witness cannot attend due to preexisting vacation plans. Is it permissible for this person to sign a statement?

Answer 8:

In general, an out of court statement cannot be used during a trial. This would be considered hearsay. If this person's testimony is truly needed, you should seek a postponement of the trial so that this person would be in attendance.

Dennis Block, of Dennis P. Block & Associates can be reached for information on landlord/tenant law or evictions at any of the following offices: Los Angeles: 323.938.2868, Encino: 818.986.3147, Inglewood: 310.673.2996, Long Beach: 310.434.5000, Ventura: 805.653.7264, Pasadena: 626.798.1014 or Orange: 714.634.8232 or by visiting www.evict123.com. Don't miss his Landlord/Tenant Radio Show, every Tuesday morning at 9:30 a.m., KTYM 1460 AM.