

Legal Questions and Answers

By Dennis Block, Attorney

Question One: The next-door property owner has pine trees. When it is windy, some of the pine needles are deposited onto my roof. Is the next-door owner responsible for the cleaning of this area?

Answer One: Under the law, anything that escapes from your land and causes damage becomes your responsibility.

Question Two: I have a tenant whose lease expires in six months. The tenant has never been able to pay on time. She now wants to amend the lease where she splits up the payment into two parts. One payment will be due on the first and the second payment will be due on the sixteenth. There is six months remaining on her lease agreement. Can I increase her rent by \$25 each payment?

Answer Two: If she signs the amendment to the lease, than this would be permissible. This is not the case, however, in a rent control jurisdiction. In that case, you would not be able to increase the rent, even though you are allowing the tenant to pay in two payments per month.

Question Three: In my tenants' residential lease, the rent is due on the 1st of each month but they have a grace period of five days before the late charges takes effect. Do I have to wait for the grace period to expire, before serving a 3-day notice to pay rent or quit?

Answer Three: You do not have to wait for the grace period to expire. You can serve the 3 day notice the day after the rent is due. The grace period pertains to when late charges take effect.

Question Four: My property is in the city of Los Angeles and is subject to rent control. I know that that the rent increase for July 1, 2007 was 5%. Has the City decided what the increase will be for July 1, 2008?

Answer Four: Yes they have. The City, in their ultimate wisdom, has decided to lower the rent increase to 3% effective July 1, 2008. This decision was made behind closed doors without any discussion from the apartment industry.

Question Five: I have obtained a duplex through a foreclosure proceeding. The property is located in Los Angeles and would be subject to rent control. The tenants are paying very low rent. Since I took ownership through a foreclosure, am I subject to rent control limitations? I would like to raise the rent to market level.

Answer Five: Unfortunately the tenants are protected under rent control. You can only raise the rent in accordance with the rent ordinance. I have seen cases where an owner, who is going through foreclosure, purposefully make a "sweetheart" deal with a tenant. If you are buying a foreclosure in a rent control area, you should be very cautious.

Question Six: I own a property in Los Angeles that has a guest house in the rear. I use it for guests and family on occasion, but was thinking of installing a kitchenette. In this way I could rent it out. A friend is doing the same thing and I wondered if this is okay?

Answer Six: The potential problems may outweigh the benefits. Installing a kitchenette requires City permits and may violate zoning restrictions. Also, you would create a dwelling unit that may be considered illegal and cause your property to be subject to rent control. If anyone complains, you could have to pay your "tenant" relocation assistance that could be as much as \$17,080.00!

Question Seven: My rental agreement restricts a tenant from having a dog or cat. It does not refer to pets. My tenant wants to have a fish tank and says that I cannot prohibit him from having fish. The tenant is month to month and my property is not under rent control. What can I do?

Answer Seven: Without an express prohibition against it, the tenant is not violating the terms of his tenancy. Fortunately, you are not under rent control and can change the terms of the tenancy on 30-day notice. You may want to consider changing your rental agreement. The AOA has one of the best residential agreements or leases.

Question Eight: I have a tenant on a year lease. In the third month he stopped paying rent. I served him a notice to pay rent or quit. On the third day he handed me the keys. He claims that he does not owe for the remaining term of the lease. The 3-day notice had a provision, which declared the lease forfeited. He states that since the lease is forfeited, he has no future responsibility under the lease. Is this true?

Answer Eight: Tell your tenant that a little bit of knowledge can be dangerous. The lease is declared forfeited but your tenant is still responsible to the end of the lease term. This is pursuant to Code of Civil Procedure 1174.5. This code section states: "**A judgment in an unlawful detainer declaring the forfeiture of the lease or agreement under which real property is held shall not relieve the lessee from liability pursuant to Section 1951.2 of the Civil Code.**"
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