

## Legal Q & A

By Ted Kimball

Q: I have a 2 bedroom apartment rented to 2 roommates. One roommate always pays the rent on time. The other roommate is habitually late. Can I do an eviction based on a partial payment even though the month is not over, the rent that has been paid covers half the month?

A: Both tenants are responsible for the entire amount of the rent so long as they are on the same rental agreement/lease. You should serve a three-day notice to pay rent or quit for the balance of the rent and name both roommates. If they do not comply, commence an unlawful detainer action naming both.

Q: I believe that when a lease is expiring no notice of termination is required. Is this correct?

A: Yes, unless your fixed term lease requires a notice of intent not to renew, you do not by law need to serve a notice of termination; however it is a good idea.

Q: If someone is causing a disturbance and does not stop after repeated warnings, can I give them a notice?

A: Yes, the law allows for an eviction based upon the nuisance activity of the tenant. The disturbances must be both major and continuous in nature.

Q: Can we prohibit children under 14 in the spa?

A: You are required by state laws to prohibit children under 14 years of age from swimming pools and spas unless supervised by an adult. You are required to post signage if there is no lifeguard on duty.

Q: Can I mail the rent increase to the tenant or do I have to give it to him in person?

A: You can serve the increase by first class mail, but you must add an additional five days to the time period so the 30 or 60-day notice of increase becomes 35 or 65 days before it is effective in the state of California.

Q: Is there a standard period of time for guests to stay? If they stay longer, what should I do?

A: There is no standard period of time but two consecutive weeks or more than 30 days in any given year is common in many leases.

Q: How much can I raise the rent legally?

A: Unless you are under rent control or a state or federal subsidy program, there are no limitations on the amount of rent you charge. You cannot unilaterally increase the rent unless your agreement is month-to-month. In that event, you can serve a written 30-day notice (or 60-day if the increase is greater than 10% within the last 12 months) to increase the rent. Otherwise, you must wait until the lease expires.

Q: How can we determine if the roaches in the apartment were the result of bad housekeeping? Is it our responsibility to get rid of the roaches?

A: Ask your pest control professional to give his or her opinion on how the roaches came into the apartment unit. The court will rely heavily on expert testimony in these cases.

Q: If there is damage from the installation of a satellite dish after a tenant moves out, who is responsible for the repairs, the tenant or the satellite company who did the installation?

A: The tenant is responsible for the installation, maintenance, and removal of the dish, and all damage caused thereby.

Q: Can I have a non-smoking floor or section of a building?

A: Most likely. Smokers are not a protected class and you can make rules that are based upon sound business reasons regarding the activities of residents.

Q: If tenant sublets, and the sublessee defaults in the rent, do I give a notice to the tenant or the sublessee?

A: You give one notice with both of their names on it to each one individually. They can be evicted in the same action.

Q: We have a security building with gated underground parking. I advertise the property as a secure community. It is an important selling point for many applicants. Is this a good idea?

A: No, because it may imply that you are responsible for the resident's health and safety from unknown third parties and create liability where none existed.

Q: What should I do if I suspect drugs are being sold out of one of our apartments?

A: Call the police and report the incident. Ask the police for any further direction. Document all of the calls and what you said, did and observed. Contact our firm to determine whether or not you have enough evidence to proceed with an eviction.

Q: If a resident dies and was on a lease, does the estate still owe rent up until someone new moves in? What about a month-to-month agreement? Obviously, the person could not give a 30-day notice.

A: When the resident dies and the lease is month-to-month, the lease is terminated. For a fixed term lease that expires on a specific date, the estate is still liable for the rent until the lease expires or the premises are relet.

Q: We are having problems with kids roller blading and skate boarding in our parking lot. We are afraid someone is going to get hurt. How can we handle this without looking like we are discriminating against children?

A: Make reasonable rules and regulations concerning the parking area for all residents and guests, not just children. Be prepared to enforce rules against all persons as well.

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