



TERMINATING A TENANCY

Most tenants in California rent either on a month-to-month basis or pursuant to a lease, which is defined as a rental agreement for a specific length of time greater than 30 days. The rules differ depending on which type of rental agreement exists between landlord and tenant.

Month-to-Month Tenancy

Under California state law, a landlord can terminate a month-to-month tenancy by serving a 30-day written notice if the tenancy has lasted less than one year, or a 60-day notice if the tenancy has lasted more than one year. For the 60 day notice requirement to apply, all tenants must have lived in the unit for more than one year. The 60-day notice rule does not apply if the unit is under a sales contract, in escrow, and the new owner intends to live in the property at least one year.

Regardless of the length of the month-to-month tenancy, the tenant can terminate the relationship by giving a 30-day written notice. After a tenant or landlord gives a termination notice, it can only be cancelled with the agreement of both parties, or by a landlord accepting rent for any period beyond the termination date.

These notices can be given on any day of the month, and the notice period begins to run immediately. Regardless of when the tenant physically vacates after the notice, the tenant remains responsible for paying rent during the rest of the notice period unless the apartment is re-rented earlier, or the tenancy is terminated because of renovation or some other reason that renders the apartment uninhabitable.

Because of this rent obligation, a tenant served with a 60-day notice who wants to vacate earlier should give his/her own 30 day notice to the landlord.

Neither party needs to give a reason for terminating a tenancy, but a landlord cannot terminate in order to discriminate against the tenant because of his/her protected status, such as race or disability. Also, termination cannot be used to retaliate against the tenant for exercising a protected right such as filing a complaint with a city's code enforcement office.

The written notice can be served by giving it directly to the tenant, or landlord. If this service cannot be completed, a copy can be left with an adult member of the household, with a second copy placed in the mail. Alternatively, it can also be served by using registered or certified mail.

Leases

A lease automatically terminates when its term expires. No notice by either party is required, unless the lease itself contains a notice clause. However, if the tenant "holds over" by staying after the expiration date with the landlord's permission, but without a new lease, the tenancy automatically converts to month-to-month. The termination rules for month-to-month tenancies will then apply.

Documented victims of domestic violence and members of the armed forces who are re-deployed can terminate a lease unilaterally by giving a 30-day notice. Economic hardship or other unforeseen changes are not grounds for early termination without the consent of the other party.

Termination Rules for Other Types of Tenancies

A tenant renting pursuant to a Section 8 Housing Voucher must be given a 90-day written notice.

A “tenant-at-will” is an adult, such as a friend or family member, living in a property for more than 30 days with the owner’s permission, but without paying rent or having a written or verbal rental agreement. This tenancy can be terminated on 30 days’ notice, regardless of the length of the tenancy.

A “single family lodger” is a tenant who rents a room in a home, in which the owner also lives, where there are no other tenants. If the owner has access to the room, this “lodger” can be terminated on 30 days’ notice. Anyone else who is renting a room is subject to the usual month-to-month or lease rules.

A tenant living in a motel for more than 30 days has full tenant rights, which cannot be defeated by moving the tenant to a different room every 29 days. A person living in a full-service hotel offering room service and other amenities is not a tenant and can be immediately removed.

An employee living on rental property, such as a resident manager, without a separate rental agreement is not a tenant and can be summarily terminated pursuant to the employment agreement.

Terminations resulting from Tenant Violations

Regardless of the type of rental arrangement, a tenant who is in violation of the applicable rental agreement, for example by failing to pay rent, is subject to eviction after receiving a 3-day notice to perform or quit. Some violations, such as engaging in criminal activity, cannot be “cured”. A tenant who commits this type of violation can be evicted after service of a 3-day unconditional notice to quit. For more information see the Project Sentinel flyer entitled “**3-DAY NOTICE**”.

No California tenant can be locked out or constructively evicted; every tenant must be given the correct written notice, followed up with an unlawful detainer court case if necessary. For more information see the Project Sentinel flyer entitled “CONSTRUCTIVE EVICTION.”

PLEASE NOTE: Many local ordinances in California impose further limits on a landlord’s right to terminate a tenancy. For example, some require the landlord to have just cause to terminate. Local ordinances should always be checked to determine if there are different rights and responsibilities.

For Assistance Call Project Sentinel (408) 720-9888