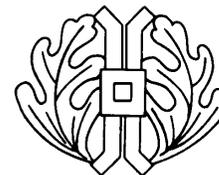


# PREVENTIVE LAW SERIES

## RENTING - THE BASICS



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### Basics of a Lease Agreement

A written lease agreement is an agreement between the tenant and the landlord that controls the material aspects of the tenancy. The lease agreement usually addresses issues such as:

- the amount of rent
- when rent is due
- procedures for requesting repairs
- obligations of the tenant
- obligations of the landlord

Generally lease agreements are either for month-to-month tenancies or a term of six months to a year. A month-to-month tenancy is automatically renewed each month unless the tenant fails to pay rent or either the tenant or landlord gives proper notice to terminate the agreement.

### The Renting Process

Think about the type of place you would like to rent. For example, do you want an apartment, a duplex, or a home? Do you want a month-to-month agreement or for some time longer? How is the neighborhood and how is the access to stores, schools, etc? Also set a maximum amount you can pay per month and stick to that amount.

Carefully inspect the rental BEFORE you rent. Check for cracks, leaks, how water, defective heating/air conditioning, ventilation, lighting, wiring, telephone jacks, etc. If you see any damage and the landlord will not fix the problem but you still decide to rent the property take pictures of the damage and date them to prove you were not the cause of the damage. In addition, you may want to return to the rental one evening before you rent to make sure there are no noise problems.

A landlord can use a credit report to determine your desirability as a tenant. A landlord can charge you for the report. However, as this is not an area regulated by law make sure any agreements you and your landlord have regarding this ARE IN WRITING!!!

### Rental Agreements

Generally the tenant and landlord enter into a written rental agreement. Oral agreements for less than one year are enforceable, but if you have a disagreement with your landlord it may be difficult to prove what the agreement should have been. Remember, if your agreement is for more than one year IT MUST BE IN WRITING! The length of your agreement may be for any time period; for example, week-to-week tenancy, month-to-month tenancy, six months, one year, etc. During the period of the tenancy, e.g. six month lease, the rent cannot be raised and the agreement cannot be broken. **NOTE:** The time period between your rent payments is important because it determines the length of notice that either you or the landlord must give to end the tenancy, the length of notice the landlord must give before he/she can raise the rent, or change any terms in the agreement.

## Basic Tenant's Rights

Tenants always have basic legal rights, which include the following:

- (1) limits on the amount of security deposit that can be sought by landlord
- (2) right to privacy
- (3) right to a refund of the security deposit or an accounting of it if not returned in its entirety
- (4) right to sue the landlord for violating the agreement
- (5) right to repair and deduct cost of repair from next rental payment (under certain circumstances)
- (6) right to withhold rent under certain circumstances
- (7) right to have a habitable premises
- (8) right to be free from retaliatory eviction.

## Military Clauses

A clause in the rental agreement that allows the tenant to terminate the rental agreement before it expires in the event the tenant **receives military orders** out of the area or receives orders into military housing. Unlike some other states, **California does not imply these provisions in your rental agreement.** YOU MUST NEGOTIATE THIS INTO YOUR AGREEMENT if you want the protection.

## Security Deposits

The maximum a landlord can charge for a security deposit is the total amount of two months' rent for an unfurnished unit or the total amount of three months' rent for a furnished unit. Make sure the amount you pay as a security deposit is accurately reflected in the agreement and that you get a receipt for it. A security deposit can be increased at the end of each term of the lease. For example, the landlord may increase the security deposit at the end of a month-to-month lease but the landlord must give you 30 days notice in that situation.

## Caution

In renting a place, there is the possibility of innumerable types of problems. Rent increases, repairs, the general condition and cleanliness of the premises (or the "habitability" of the premises), Please refer to the handout, Renting – Potential Problems and Pitfalls, for a more detailed discussion.

## LEGAL ASSISTANCE APPOINTMENTS

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

## RESOURCES:

California Department of Consumer Affairs, 1-800-952-5210

[www.dca.ca.gov](http://www.dca.ca.gov)

California Civil Code Sections 1943, 1944, 1945, 1945.5, 1946, 1951.2

