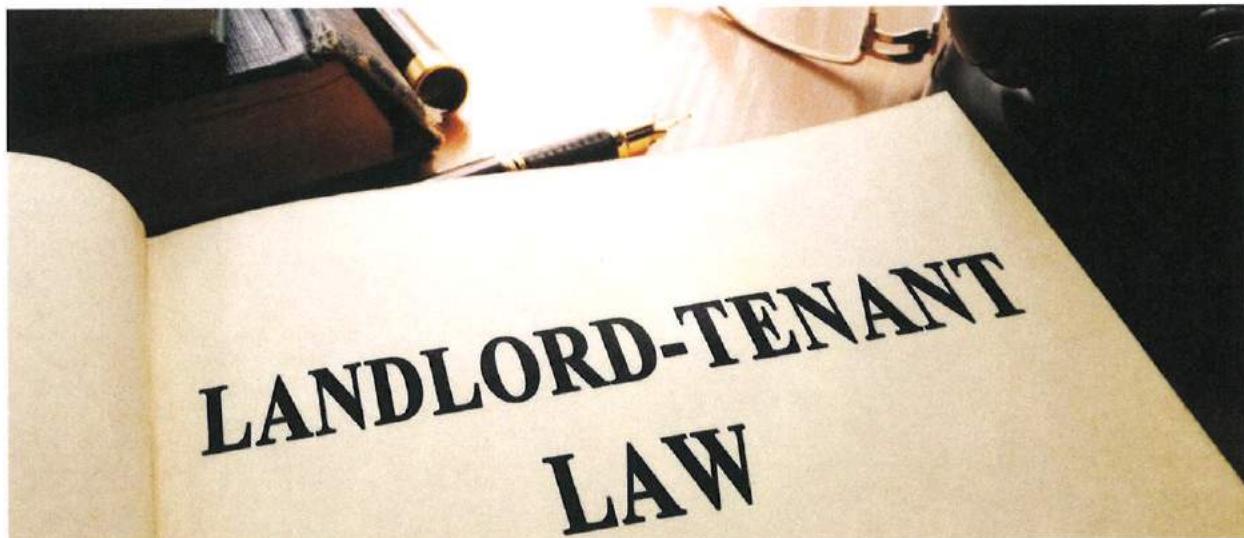


# Chapter 15



## Leases, Tenants, & Landlord

### Chapter 15 Goals:

- Learn about the various types of tenancies
- What is the difference between an assignment and sublease
- How to terminate a lease
- Responsibilities of landlords
- Responsibilities of tenants
- Learn about the eviction process

# Chapter 15: Leases, Tenants, & Landlords

*This chapter will explore leases, the rights and responsibilities of tenants and landlords, and the ways in which a lease may be terminated.*

## Key Terms

assignment	implied warranty of habitability	right to habitability
assignment of rent	inspection	right to quiet enjoyment
constructive eviction	lease	right to privacy
demand letter	nondisturbance clause	right to safety and security
demise	periodic tenancy	security deposit
estate from period to period	purchase option	sublease
exculpatory clause	recreational user immunity	surrender
eviction	rent control	tenancy at sufferance
forfeiture	Rent Control Stabilization Act	tenancy at will
habitability	retaliatory eviction	tenancy for years
Hazardous Substance Disclosure	right to entry	unlawful detainer action
		writ of possession

## The Lease

A lease agreement -- more commonly referred to as a **lease** -- is a contract which grants one party an exclusive, possessory interest in another party's property for a specific period of time. It is often used synonymously with the term **demise**, which is the conveyance of real property or the transfer of a leasehold.

Leases can be written or verbal.

A lease agreement is different than a lease application. A lease agreement is an official contract between the landlord and tenant, whereas an application is merely used for prequalifying a tenant for a lease.

## Lease Terms & Provisions

Leases can vary widely in length. Standard residential leases contain fairly simple and general language. They can range anywhere from one to five pages.

Commercial leasing agreements are much more complex. They are highly specific and deal with a wide range of factors, including land use, business operation, and profit sharing. Filled with legalese language, they may be upwards of a hundred pages. For this reason, a real estate lawyer typically drafts a commercial lease on behalf of the landlord.

As lease provisions are at the discretion of individual landlords, all leases are different. However, the following items are included in most basic leases:

- Parties involved
- The subject property
- Terms (including schedules payment date and amount)
- Rent payments (authorized method of payment and payment schedule)
- Late payments (circumstances, charges, fees)
- Security deposit
- Renter's insurance
- Utilities (what is and is not included in the rent payment)
- Occupants (maximum occupancy)
- Pets
- Parking
- Possession
- Maintenance
- Alterations (the right of tenant to alter property)
- Damages
- Noise
- Termination
- Right of entry and inspection
- Report to credit (tenant authorizes credit check)

A tenant who agrees to a lease must also agree to any associated CC&Rs, if applicable.

### **Case Review: *Edmond's of Fresno v. McDonald Group, Ltd.* (1985)**

The case, *Edmond's of Fresno v. McDonald Group, Ltd.* (1985) 171 Cal.3d 598., involved a dispute over a competition provision between a property owner and a tenant.

A jewelry store owner (Edmond's of Fresno) leased retail space in a mall. It had a competition provision with the mall owner (McDonald Group, Ltd.) that barred McDonald Group from leasing retail space to other jewelers. However, when McDonald Group added additional space to the mall, it leased retail space to other jewelers in that additional space. Edmond's brought a lawsuit against McDonald Group for violating the competition provision.

In Superior Court, McDonald Group argued that the competition provision only applied to the portion of the mall that was in place at the time of the agreement, not the additional space that had been added. However, the court contended that

the competition provision must apply to the entire mall, not just a portion of it. Therefore, it ruled in favor of Edmond's.

Leases for rural property have a maximum length of 99 years. This means after 99 years, the landlord has the ability to evict or alter the previous agreement.

### **Exculpatory Clause**

An **exculpatory clause** is a provision in a lease that relieves one or multiple parties of liability from the other party's error or wrongdoing.

For example, an exculpatory clause would relieve a landlord of any damages sustained by a tenant who is leasing the property. This does not excuse landlords from negligent actions, fraud, or violations of the law, however.

Typically, the party who wishes to be relieved of liability initiates an exculpatory clause.

### **Case Review: *Burnett v. Chimney Sweep (2004)***

The case, *Burnett v. Chimney Sweep (2004)* 123 Cal.4th 1057., involved a dispute regarding an exculpatory clause.

A couple (the Burnetts) signed a commercial lease with a landlord (Chimney Sweep). The lease included an exculpatory clause which required the Burnetts to waive the right to hold Chimney Sweep liable for any injury resulting from leasing the property (except in the instance of negligence). When the Burnetts moved into the property, they discovered water stains, the existence of excessive moisture, and mold and mildew growths. The Burnetts informed Chimney Sweep of the damages, but the landlord refused to repair them. The Burnetts filed a complaint for general negligence and negligent maintenance.

The Superior Court argued that the lease's exculpatory clause freed Chimney Sweep from liability. It ruled in favor of Chimney Sweep. The Burnetts appealed. The Court of Appeals argued that the exculpatory clause applied only to passive negligence, not to active negligence. Chimney Sweep had actively avoided and refused to fix the excessive moisture and mildew/mold growth. Therefore, the court reversed the lower court's ruling and ruled in favor of the Burnetts.

## Unenforceable Provisions

Unconscionable lease provisions cannot be enforced. As stated in Civil Code 1670.5:

- (a) *If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.*
- (b) *When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination.*

The following are considered unenforceable lease provisions:

- A provision authorizing a landlord to repossess a property if a tenant falls behind on rental payments. (To repossess the property, the landlord has to formally start the eviction process.)
- A provision authorizing a landlord to enter the property at any time.
- A provision authorizing a landlord to indiscriminately raise the lease rate.
- A provision stating that a landlord has the authority to charge a tenant any price he or she demands for a repair on the property.

## Security Deposit

A **security deposit** is a refundable down payment paid by a tenant to a landlord in order to secure the tenant's rental of a property. This deposit protects a landlord's interests throughout the lease period in the event that a tenant fails to make payments, causes damages to the property, or violates the terms of the lease.

The maximum security deposit a landlord can charge is two month's rent for an unfurnished residential property and three month's rent for a furnished residential property. There is no limit restricting how much a landlord can require for a commercial real estate property.

A landlord also has the right to charge up to \$30.00 in order to cover the cost of a background check on a tenant. This may include a check of credit reports, financial records, and/or general records.

If a tenant upholds the lease terms, a security deposit will either be returned at the expiration of the lease period or applied to the final rental payments. (If the deposit is used towards a rental payment, it is considered income and therefore, is taxable.) A landlord has 21 days to return a security deposit to a tenant after he or she has moved

out.

Should a landlord sell a property while a tenant inhabits the property, the former landlord must transfer the tenant's security deposit to the new landlord, or return the security deposit to the tenant. It is the responsibility of the former and new landlords to determine the details of the tenant's security deposit.

A landlord is not required to pay interest on a tenant's security deposit.

## Inspections

A landlord may **inspect** a property prior to the expiration of a lease (Civil Code Section 1950.5(f)). He or she must provide a tenant with 48 hours advance notice prior to conducting the inspection. This provides a tenant with sufficient time to make repairs, if necessary. Should a tenant not respond to a landlord's request for an inspection, the landlord may conduct the inspection regardless of whether the tenant is present.

A tenant has the right to request an independent inspection of a property, both before living on a property and prior to vacating it.

## Damages

Wear and tear refers to the natural damage that results from a tenant's reasonable use of a property. Reasonable use assumes that a property's features -- such as the flooring and paint -- will be at a lower standard than when a tenant originally moved in.

Wear and tear costs are the responsibility of the landlord (California Civil Code Section 1950.5 (e)). A landlord cannot shift the costs of wear and tear to a tenant by reducing or forfeiting the tenant's right to his or her security deposit.

However, a landlord may withhold a tenant's security deposit if there are unreasonable damages to a property. In this case, the landlord must supply the tenant with an itemized breakdown of damages and the total cost of repair. This includes all material and labor costs that are required to return the property to its original state.

(A landlord is not required to provide a tenant with an itemized list of expenses if the cost of repair is less than \$125.00.)

The burden of proof falls on the landlord to prove the cost of repairs is as he or she claims. Therefore, a landlord must provide a tenant with a copy of all repair receipts within 14 days of the repairs being completed.

Should there be a dispute about the costs of repair, both the landlord and the tenant have the right to negotiate and verify the other party's findings.

Should a landlord make a bad faith claim and withhold a security deposit from a tenant after the maximum 21 day period, the landlord may be subject to twice the amount of the security deposit and any damages associated with retaining the deposit (California Civil Code 1950.5(i)).

### **Case Review: *People v. Parkmerced Co. (1988)***

The case, *People v. Parkmerced Co. (1988)* 198 Cal.3d 683., involved a dispute regarding a landlord who charged unfair nonrefundable fees.

A large apartment complex was owned by Parkmerced Co. On top of the first month's rent, Parkmerced Co. charged new tenants a nonrefundable \$65 moving-in fee and a nonrefundable \$50 transfer fee if a tenant wished to move to another unit in the building. The tenants believed these fees to be unfair. The district attorney brought legal action against Parkmerced Co. for violating lease deposit law.

In court, the district attorney argued that Parkmerced Co. had violated the laws governed in Civil Code Section 1950.5. The Code stated that landlord fees should be used in connection with repairs or to cure tenant defaults. However, Parkmerced Co. had used the fees for cleaning, administrative, and process fees. Therefore, the Superior Court ordered Parkmerced Co. to reimburse the fees with interest to the tenants who were affected.

## **Rent Control**

**Rent control** refers to the restriction of rental rate increases in residential real estate. Such restriction prevents landlords from unfairly inflating rental rates in order to make a profit or to evict tenants.

The Costa-Hawkins Rental Housing Act placed restrictions on existing rent control ordinances. A major component of the bill was to prohibit cities from placing rent control on single family residences and newly constructed units. The act also permits landlords to rent the property at any price after a rent controlled unit became vacant, thereby forfeiting the government's right to force landlords to rent a unit at a certain price for the ownership life of the landlord.

The **Rent Control Stabilization act** is a series of laws that restricts how much a landlord can charge for rent. This act is highly celebrated by some and hotly contested by others. Proponents claim that this act provides affordable housing opportunities to lower income households, while opponents claim that the act is a massive government

takeover that limits the amount a landlord can make from renting units. Generally rent stabilization acts affect properties prior to October 1, 1978.

### **Case Review: *Gross v. Superior Court* (1985)**

The case, *Gross v. Superior Court* (1985) 171 Cal.3d 265., involved a dispute over the eviction of a tenant in a rent-controlled unit.

A tenant (Gross) signed a one-year lease in a rent-controlled apartment. Shortly after, the property went into foreclosure. After the foreclosure, the property's beneficiary filed an unlawful detainer lawsuit against Gross in order to evict him. The purpose of this was to evict the tenant from the apartment. The City of San Francisco issued a writ of possession that required Gross to vacate the premises within three days. Gross sued. The Superior Court held that the new owner had the right to institute an unlawful detainer. Gross appealed.

Gross contended that there were no grounds on which to subject him to eviction under the Rent Stabilization Act. The Court of Appeals argued in favor of Gross stating that a new beneficiary of a rent-controlled property cannot evict a tenant without reason. It ruled in favor of Gross.

### **Case Review: *Bisno v. Santa Monica Rent Control Board* (2005)**

The case, *Bisno v. Santa Monica Rent Control Board* (2005) 130 Cal.4th 816., involved a dispute regarding a rental rate increase.

A tenant (Bisno) rented a rent-controlled unit as a secondary residence. In 2003, the City of Santa Monica adopted Regulation 3304, which allowed landlords to increase the rent on rent-controlled units that are not primary residences. Bisno's landlord subsequently petitioned the Santa Monica Rent Control Board to increase Bisno's rent. The Board accepted the landlord's request. Consequently, Bisno's landlord raised the rent from \$1,100/month to over \$4,000/month. Bisno sued the Santa Monica Rent Control Board.

In court, Bisno cited The Costa-Hawkins Act. He claimed that the Act did not include a provision that required tenants of rent-controlled properties to use the property as their primary residence in order to qualify for rent-controlled rates. Bisno's contention and understanding of the act was incorrect because the Costa-Hawkins Act includes a provision that indicates that rent controlled units are

only for primary residences. The Superior Court ruled that Regulation 33004 was correctly enforced, and that the landlord had the right to increase the rent.

## **Types of Tenancy**

### **Tenancy for Years**

A **tenancy for years** – also known as an “estate for years” or a “fixed-term lease” – is a lease with a clear beginning and end date. They are typically used for short-term or seasonal leasing.

A tenant will pay rent to a landlord on a specified payment schedule. Following the end of the lease period, the landlord controls the power to renew the agreement. If the landlord chooses not to renew, the lease ends automatically and no formal written agreement is required.

### **Tenancy at Will**

A **tenancy at will** – also known as an “estate at will” – is a flexible lease in which a tenant occupies a property without a formal written agreement. Typically, this type of agreement has no definitive beginning or end date; rather, a landlord agrees to lease to a tenant “until further notice”.

For example, a landlord may allow a friend or family member to rent one of his or her properties without a formal lease in place.

An estate at will can be terminated for any reason, at any time, by either the tenant or the landlord. Although this can provide flexibility, it can also produce uncertainty for both the tenant and landlord.

For example, if a tenant suddenly needs to relocate for a job, the tenant could move out with no advance warning and leave the landlord with a non-rented unit. Alternatively, because a tenant at will is not locked into a written lease agreement, a landlord has the ability to raise rental rates without warning.

### **Tenancy at Sufferance**

A **tenancy at sufferance** is when a tenant whose lease has expired continues to lease a property without signing a new agreement. This “holdover” tenant typically continues to uphold the terms of the original lease until a new one is created.

A tenancy at will and a tenancy at sufferance are similar in that both situations feature a tenant who lives on a property without a current lease. However, a tenancy at sufferance differs in that the tenant did once have an official agreement.

In California, a “holdover” tenant who does not pay rent after a lease’s expiration date is considered a trespasser.

## **Periodic Tenancy**

**Periodic tenancy** – also known as an “**estate from period to period**” – is a lease that automatically renews until a tenant or landlord terminates it in writing. Most periodic tenancies are month-to-month.

In the event that a landlord wants to change any lease terms – such as the payment schedule or rent amount – he or she must provide the tenant with a 30-day advance warning of proposed changes. If the landlord wishes to increase the rent beyond the standard cost of living increase (3.5%), he or she must provide the tenant with a 60-day advance warning.

Both landlord and tenant must also provide advance notice prior to terminating the lease. Typically, a 30-day advance termination warning is expected. However, if a tenant has been living on the property for more than 12 rental months, a landlord must provide at least a 60-day advance warning. If the tenant is renting through Section 8 housing, the landlord must provide a 90-day advance warning.

Leases may be terminated earlier if both parties agree.

Under California law, a termination notice can be scheduled on a different date than the first or last day of the lease agreement as long as both parties have been provided advance warning.

## **Purchase Option**

A **purchase option** – also known as an “option to purchase” – is an agreement which affords a tenant the exclusive right to purchase a leased property in the future at an agreed-upon price. Once an agreement has been signed, a seller cannot sell the property to anyone else.

A tenant will typically lease the property during the option period before deciding whether to purchase the property. However, he or she is under no obligation to purchase the property at the end of the contract period.

A purchase option must include a price -- or a reasonably clear price range -- of how much a buyer is willing to pay for the property.

### Case Review: *Wilson v. Gentile (1992)*

The case, *Wilson v. Gentile (1992)* 8 Cal.4th 759., involved a dispute over whether an option agreement had been properly exercised.

A lessee (Wilson) entered into a lease agreement with a property owner (Gentile) with a six-month option for Wilson to purchase the property. The agreement required Wilson to exercise his option right 30 days prior to the option's expiration date. Wilson exercised the option six days prior to its expiration date. Gentile refused the offer, citing that the offer was too late. Wilson stopped making rental payments and Gentile brought an unlawful detainer action against him. Wilson sued for declaratory relief and specific performance, citing that Gilbert had violated the terms of their contract.

The trial court determined that Wilson had properly exercised his option to purchase the leased property, even if it was six days before the expiration date. Gentile appealed. The Court of Appeals affirmed the lower court's ruling.

## Assignment

An **assignment** refers to when a tenant forfeits his or her rights to a property by transferring them to another party. In this case, the new tenant typically becomes fully liable for the property.

Typically, tenants utilize an assignment when they are moving, they wish to get out of a lease, or they can no longer afford the lease terms.

For example, say a tenant signs a two-year lease for his business location. After six months, however, the business is losing money and he wishes to close the business. The tenant can assign the lease to another tenant in order to get out of the lease.

Before a property can be assigned, the property's landlord must approve and sign a "License to Assign" form. The departing tenant and the new tenant must also sign an "Assignment of Lease Agreement" form.

In an assignment, a landlord typically issues a new lease and deal directly with the new tenant. The departing tenant should request a release form indicating that he or she is no longer liable for the lease.

## Sublease

Although similar, an assignment differs from a sublease. A **sublease** involves a tenant leasing a property to another tenant while still being liable for the terms of the original

lease.

In this case, no new lease is created between the landlord and the subletter. Rather, the original lease remains intact and the original tenant acts as a middleman between the landlord and the subletter to uphold its terms. The original tenant is responsible for facilitating all communication and ensuring all repairs and rent payments are made. A subletter is expected to pay the rent, although the original tenant is ultimately responsible if the subletter fails to do so.

Some landlords may prohibit subleases. A lease may include a provision that expressly prevents subletting (Civil Code Section 1995.230). If it doesn't, however, a tenant has the right to do so. If a landlord does not allow subletting, but has accepted rental payments from the original tenant while the subletter lives on the property, the landlord's acceptance of payment indicates his or her consent of the subletter.

If a tenant chooses to sublet a property for more money than the original terms of the lease, the landlord is entitled to a portion of the income (Civil Code Section 1995.240).

## **Tenant Rights & Responsibilities**

### **Tenant Rights**

The law provides tenants with basic rights, including:

- right to habitability
- right to safety & security
- right to quiet enjoyment
- right to privacy
- protection against improper eviction

### **Implied Warranty of Habitability**

When a tenant leases a residential property in California, it is done with an implied warranty of habitability. An **implied warranty of habitability** promises that a property is habitable in its current condition.

**Habitability** refers to a property that has met the minimum living standards of a reasonable person. Generally, this means a property must be safe, provide shelter from the elements, and be free from pests and harmful elements.

A landlord's specific responsibilities for ensuring habitability include:

- Safe, functioning gas facilities
- Safe, functioning heating and cooling system
- Safe, functioning electrical system (including wires)
- Functioning plumbing facilities
- Functioning smoke detectors
- Flooring, railing, and staircases are built and maintained to city codes
- Functioning water system
- Roof does not leak
- No pests, mold, or other potentially harmful elements
- Property maintenance (such as trees, brush)
- Windows are sealed and have a lock mechanism

Each building must conform to the building codes and safety laws set forth by the local county. A landlord of a property that does not meet local standards cannot collect rent, issue a notice of rental increase, or initiate an eviction process (Civil Code 1942.4).

If a landlord breaches the implied warranty of habitability, the landlord must promptly resolve the issue. If the landlord does not do so, a tenant can seek an unlawful detainer against the landlord. In this case, a court will set the proper rental amount that the landlord can charge. Any previous payments by the tenant must be refunded by the landlord within five days after the court's ruling of the new rental rate (Civil Code Section 1174.2).

Once a landlord repairs the breach in the implied warranty of habitability, he or she can return to charging the original rent in the lease.

In a situation where an unlawful detainer of residential real estate occurs by the landlord, the landlord will be liable for all costs to the tenants, including attorney fees and potential damages.

A tenant is not protected when a property's habitability is affected by the tenant's actions.

### Case Review: *Hyatt v. Tedesco* (2002)

The case, *Hyatt v. Tedesco* (2002) 96 Cal.4th.Supp. 62., involved a dispute regarding a breach of implied warranty of habitability.

A tenant (Tedesco) lived in a building owned by a landlord (Hyatt). Tedesco's apartment was not properly waterproofed and the roof had severe leaking. Consequently, Tedesco stopped paying rent. Hyatt filed an unlawful detainer action against her, seeking a forfeiture of the lease agreement, past due rent, and possession of the premises. Tedesco countersued for a breach of implied

warranty of habitability.

The Superior Court determined that the defects in Tedesco's apartment were not substantial. Therefore, Hyatt should only be required to reduce the rent for one month and retain full possession. Tedesco appealed. The Court of Appeals argued that the property had not only cosmetic defects, but also issues that affected Tedesco's health and safety. It ruled that such evidence proved a substantial breach of implied warranty of habitability. The court ordered Hyatt to reduce Tedesco's rent until the necessary repairs were made.

## Safety & Security

A landlord is responsible for the security of a property, both in common areas and individual units.

A property must possess safety protocols that deter, if not prevent, assailants from trespassing and/or causing damage to the property. A landlord is responsible for all common areas, including walkways, lobbies, entries, sidewalks, and parking lots.

Landlords are not required to have particular security measures in place; however, a landlord could be held liable if he or she tells a prospective tenant that a security measure will be implemented and then does not implement it.

It is also a landlord's responsibility to confront and potentially remove tenants who pose a threat to other tenants, or whose actions may result in the pain or suffering of another tenant or damage to the property.

If a landlord is aware that criminal activity is occurring on the property -- such as drug creation or distribution -- the landlord must take measures to remove the activity. If the landlord knowingly ignores or allows criminal activity to occur on the property, the landlord could be held liable. A landlord can also be held responsible if a crime occurs and he or she does nothing to prevent a similar crime from occurring in the future.

A landlord is also responsible for the safety and security of individual units. A landlord must ensure that each unit has the following:

- proper lighting
- functioning emergency components, such as smoke and carbon monoxide detectors
- a deadbolt lock for the entry
- a window lock to prevent theft and to prevent the violation of tenants privacy

If a landlord does not respond to a tenant's request for repairs, the tenant may be able to withhold up to one month's rent at a time in order to repair the property. A tenant

can deduct a maximum of two month's rent a year (Civil Code Section 1942).

If a landlord endangers the safety and security of a property's common areas or a tenant's personal property, a tenant may have the right to terminate the lease without penalty. A landlord cannot withhold a tenant's security deposit if a tenant terminated a lease early due to a landlord's negligence in providing security.

### **Quiet Enjoyment**

The **right to quiet enjoyment** expressly guarantees a tenant the right to enjoy the property without unfair and aggressive interruptions by the landlord or other tenants.

For example, a landlord does not have the right to make excessive repairs that affect a tenant's ability to enjoy the property.

### **Right to Privacy**

A landlord must provide verbal or written notice of his or her intent to enter a tenant's property prior to doing so.

A landlord cannot require the tenant to forfeit their rights to privacy in the lease agreement (Civil Code Section 1953).

#### **Case Review: *Sachs v. Exxon Co. (1992)***

The case, *Sachs v. Exxon Co. (1992)* 9 Cal.4th 1491., involved a dispute regarding a tenant's right to privacy.

A property landlord (Sachs) leased land to an oil company (Exxon Co.). At one point, Sachs wished to inspect the property and conduct soil contamination tests to ensure that the company was not violating any state or federal environmental laws. Exxon Co. refused to allow Sachs to do so. Sachs sued.

The Superior Court argued that Exxon Co. had the right to use the property without disturbance. It ruled in favor of Exxon Co. Sachs appealed. The Court of Appeals indicated that a lease had an implied covenant of good faith which gives a landlord the right to protect his or her property from environmental hazards. Therefore, it reasoned that Sachs had the right to conduct reasonable inspections in order to verify that Exxon Co. was not violating environmental laws. The appellate court overturned the lower court's ruling.

## Fixtures

A lease will usually include a provision regarding fixtures.

Typically, if a tenant wishes to make repairs or additions to property fixtures, he or she must disclose this to the landlord. The landlord must confirm that the tenant has the right to alter a property's fixtures prior to the tenant doing so.

Tenants do not have the right to remove fixtures and claim them as their own. An item is considered a permanent fixture if its removal causes damage to the property. This applies to fixtures paid for by a tenant, unless otherwise agreed to in writing.

Conversely, items that are added by a tenant but are not attached to a property are considered the tenant's property.

Trade fixtures added by a tenant must be removed prior to the tenant vacating the property. This refers to any fixture added for the purpose of assisting a tenant with his or her living standard or business. If a tenant is on a month-to-month lease and added a trade fixture, the tenant can remove the fixture within a reasonable amount of time, even if it extends beyond the termination of the lease.

The removal of a trade fixture cannot cause damage to the property. Any damages resulting from the removal of a trade fixture are the responsibility of the tenant. A landlord may withhold all or a portion of the security deposit in order to cover the cost of the damage.

Because tenants generally live in a property on a temporary basis, the court will usually side with a tenant when a landlord and tenant have a dispute about the rightful ownership of a fixture added by the tenant.

## Tenant Responsibilities

- Making rental payments on time
- Maintaining the property under reasonable standards
- Inform landlord of any damages, repairs, and/or additions
- Do not engage in activities that could cause damage to the property, put others in danger, or inhibit other tenants' quiet enjoyment, or allow guests to do so
- Do not engage in illegal, criminal activity
- If a residential property, do not use the property for purposes other than dwelling (i.e. don't use it to operate a retail business)
- Use electrical equipment and other devices properly

## **Landlord Rights & Responsibilities**

A landlord or manager must be readily available to receive and respond to tenant questions, concerns, and/or disputes. Any individuals who are authorized by an owner to act as the landlord or manager of a property must be disclosed to tenants.

Residential properties with 16 or more units must have a resident manager. Although a resident manager is not expected to be available 24 hours a day, there must be a reasonable expectation that residents can locate the manager in the case of an emergency.

An owner of real property can assign another party to collect rent on his or her behalf. This is known as an **assignment of rent**.

### **Right to Entry**

A landlord must provide a tenant with a reasonable notice of at least 24 hours prior to entering a unit. Such a notice must be issued prior to repairs, improvements, or for the purpose of showing the unit to prospective buyers, lenders, appraisers, contractors, inspectors or other real estate professionals (Civil Code Section 1954).

The landlord has the legal right to enter a tenant-inhabited unit under the following circumstances:

- A tenant consents to the entry
- An emergency requires the landlord to enter a tenant's unit. The landlord does not need to provide reasonable notice if there is an emergency that requires immediate attention.
- A court has issued an order for the landlord to enter the property
- A tenant has surrendered or abandoned the property

### **Hazardous Substance Disclosure**

Landlords must disclose the presence of potentially hazardous substances on a property to buyers, tenants, and short-term lessees.

Health and Safety Code 25359.7 (a) states that an owner of "nonresidential property who knows or has reasonable cause to believe that any release of hazardous substance has come to be located on or beneath that real property, and prior to sale, lease, or rental of the property, must give written notice of that condition."

### Case Review: *Brown v. Green* (1994)

The case, *Brown v. Green* (1994) 8 Cal.4th 812., involved a dispute between a tenant and a landlord regarding which party was responsible for removing asbestos from a property.

A potential tenant (Green) wished to lease a property from a property owner (Brown). Brown provided Green with a written notice informing him of the potential presence of asbestos in the building. Green elected not to investigate the possible presence of asbestos. He signed a 15-year lease with a provision stating that Brown would have “no obligation in any manner whatsoever, to repair and maintain the Premises nor the building located thereon nor the equipment therein”. Two years later, the Department of Health Services served Green with a hazard violation related to the asbestos and mandated its cleanup. Brown told Green he had to pay for the removal. When Green refused, Brown filed a lawsuit.

The Superior Court argued that although the lease did not expressly indicate who was responsible for complying with laws regarding environmentally hazardous materials, the language did suggest that the burden fell on Green. Therefore, the court ruled that Green should assume the burden of removing the asbestos.

### Case Review: *United States of America v. Maryland Bank & Trust* (1986)

The case, *United States of America v. Maryland Bank & Trust* (1986) 632 F.Supp. 573, involved a dispute over a new property owner’s liability for hazardous waste left behind by the previous owner.

A lender (Maryland Bank & Trust) foreclosed on a property in which the property owner had defaulted on its debt. Following the foreclosure, Maryland Bank & Trust discovered that the previous owner had used the property as a hazardous dumping ground. The bank elected to do nothing about the waste. However, the bank later received a hazardous cleanup bill for \$551,713 from the EPA. Maryland Bank & Trust failed to pay. The United States government -- through the EPA -- brought legal action against the bank.

The Superior Court argued that it was Maryland Bank & Trust’s responsibility to be aware of the previous property owner’s activities, or at least to verify the condition of the property prior to foreclosure. It held Maryland Bank & Trust

liable for the cleanup costs.

## Landlord Liability

A standard of reasonable care requires that a landlord be aware, cautious, and attentive to a property that he or she owns. When a landlord breaches that standard of reasonable care, he or she is guilty of negligence.

A landlord's failure to maintain a property or make necessary repairs in a timely manner may lead a tenant or a guest to sustain an injury. Injuries may occur in a property's common areas or in a tenant's unit.

If a tenant can prove that it was the landlord's negligence/inaction which caused the injury, a landlord can be held liable. Tenants can sue landlords for damages, including financial difficulty, emotional distress, physical injuries, medical bills, or lost earnings.

To win a negligence case, a tenant or guest must prove:

- a tenant or guest was genuinely and substantially injured
- it was the landlord's responsibility to maintain the portion of the property that caused an injury
- the landlord was reasonably aware of the potential danger, but did not take the reasonable steps necessary to eradicate it
- a repair would have been relatively cheap and easy to fix, including the minimal time to repair the defected problems
- an accident/injury was foreseeable, considering the conditions of the property

For example, say a tenant trips on a broken step on a property's entrance stairs and breaks her leg. If the property's landlord knew the step was broken for the last two weeks and did not repair it, he would be held liable. If the injury occurred before the landlord was even made aware of the broken step, he would not be held liable.

California courts set a strict standard for property owners and tend to prosecute repeat violators of building and safety codes.

### Case Review: *City v. Sainez (2000)*

The case, *City v. Sainez (2000)* 77 Cal.4th 1302., involved a negligent landlord who repeatedly violated building safety codes.

A landlord (Sainez) owned multiple multi-unit rental properties throughout San Francisco. The properties, however, were kept in poor condition. They had

inadequate heating; deteriorating walls; nonfunctional ceiling and windows; leaks; inadequate fire extinguishers and smoke detectors; hazardous electrical and plumbing systems; and illegal floors of occupancy. On top of these violations, Sainez worked without permits.

The City filed suit against Sainez on the premise that he violated building safety codes and did not meet public health standards.

The Superior Court ruled that Sainez was in violation of building safety codes. Because of Sainez' long history of violations, it determined that Sainez should be held fully responsible. It fined him over \$767,000. Sainez appealed. The Court of Appeals reduced the fines to \$663,000.

### **Case Review: *New v. Consolidated Rock Products Co. (1984)***

The case, *New v. Consolidated Rock Products Co. (1984)* 171 Cal.3d 681., involved a property owner being held liable for trespassers' actions.

Two motorcyclists (New) drove their bikes on the private land of a property owner (Consolidated Rock Products Co.). The motorcyclists drove over a 20-foot cliff at the end of a road and sustained major injuries. Although the motorcyclists were trespassers on the land, they brought legal action against Consolidated Rock Products Co. They alleged that the "No Trespassing" signs were not an adequate warning to drivers.

New brought a structural engineer to testify in court. The engineer stated that the current "No Trespassing" sign did not permit drivers/riders to read it while driving. He argued that a driver/rider could not read more than three words on a sign while driving 25 MPH. The Superior Court ruled in favor of New. It held Consolidated Rock Products Co liable for failing to take precautions that could have prevented the trespassers from driving off the cliff.

### **Case Review: *Brunelle v. Signore (1989)***

The case, *Brunelle v. Signore (1989)* 215 Cal.3d 122., involved a property guest filing legal suit against the property owner over a spider bite.

A property owner (Signore) owned a vacation rental. A guest staying on the property (Brunelle) was bit by a brown recluse spider. Brunelle brought legal action against Signore for negligence. She argued that his failure to maintain the

property led to her being injured.

The appellate court indicated that although Signore was liable for guest injuries, he could not be held liable for harmful insect bites, especially when the threat of spiders was never prevalent in the first place. Brunelle indicated that it was Signore's duty to regularly hire extermination services. The court disagreed, stating that such an imposition would impose an undue burden on Signore.

### **Case Review: *Peterson v. Superior Court* (1995)**

The case, *Peterson v. Superior Court* (1995) 10 Cal.4th 1185., involved a hotel guest suing a hotel for negligence.

A hotel guest (Peterson) slipped in the bathtub and sustained a serious head injury. Peterson claimed that the bathtub was "smooth, slippery, and slick" and provided no safety measures (such as anti-skid or grab rails) that would have prevented her from falling. Peterson sued the hotel.

The Superior Court argued that although a property owner can be held liable for an injury on the property, the injury must be sustained through an owner's negligence. In this case, Peterson's fall was due to a flaw in a manufacturer's product. Therefore, the court transferred liability to the manufacturer of the bathtub (Kohler Company). The lawsuit against the hotel was dropped and Kohler Company settled with Peterson for \$600,000.

### **Case Review: *Wylie v. Gresch* (1987)**

The case, *Wylie v. Gresch* (1987) 191 Cal.3d 412., involved a dispute over a landlord's liability for a dog attack that occurred on a property.

A tenant (Wylie) rented a home from a landlord (Gresch). One day, Wylie's child was attacked by a dog on the property. The dog's owner lived in the neighboring house. Wylie sued Gresch for negligence over failing to disclose the presence of a vicious dog in the neighborhood.

The Superior Court argued that a landlord is only responsible for disclosing information about people, conditions, or pets on the landlord's property, not the general neighborhood. As the dog's owner was not one of Gresch's tenants, the court ruled that he could not be held liable.

### Case Review: *Castaneda v. Olsher (2007)*

The case, *Castaneda v. Olsher (2007)* 41 Cal.4th 1205., considered a landlord's liability for gang activity on his property.

A tenant (Castaneda) rented space in a mobile home park owned by a landlord (Olsher). Olsher also rented to another tenant who was a known gang member. The gang member tenant harassed the other tenants. One night, a shootout between the gang member tenant and a rival gang occurred in the mobile home park. Castaneda was injured by a stray bullet. Castaneda sued Olsher for negligence.

In court, Castaneda contended that Olsher should have taken reasonable measures to secure the property (such as installing security guards or lighting). He also argued that the violence was foreseeable, and that Olsher could have prevented the shootout by not renting to a known gang member, or evicting him when he harassed other tenants. The Superior Court ruled in favor of Olsher. Castaneda appealed. The Court of Appeals overturned the lower court's decision. Olsher appealed to the State Supreme Court.

The State Supreme Court argued that there was not sufficient evidence to suggest that the absence of security guards or lighting resulted in the shootout. It also contended that Olsher did not have a responsibility to not rent to known gang members. In fact, such behavior might encourage housing discrimination based on clothing, language, dress, and ethnicity, and place Olsher in the untenable position of rejecting qualified tenants. Finally, the court determined that it was not reasonable for Olsher to foresee that a shootout would occur on the property based on him having a known gang member as his tenant. The court ruled in favor of Olsher.

### Case Review: *Madhani v. Cooper (2003)*

The case, *Madhani v. Cooper (2003)* 106 Cal.4th 412., involved a negligence claim made against a landlord for his failure to prevent a tenant's continued threats and violence against another tenant.

A tenant (Madhani) lived in an apartment complex that was owned by a landlord (Cooper). At some point, Madhani was assaulted by a co-tenant (Moore). Moore threw Madhani down several flights of stairs, which resulted in Madhani losing consciousness and sustaining severe physical injuries. Moore also slapped and shoved Madhani's mother. Madhani informed Cooper of the incidents. Cooper

said that he would talk to Moore and resolve the issue.

However, Moore continued to continuously threaten and harass Madhani. Fearing for her well-being, Madhani informed the police of the matter. The police advised Madhani to talk to Cooper. Madhani did so, but Moore's behavior continued. Madhani complained to Cooper on a total of six different occasions without a change in behavior from Moore. At this point, Madhani filed a negligence claim against Cooper.

The Superior Court determined that Cooper was not liable for the damages sustained by Madhani. It ruled in favor of Cooper. Madhani appealed. The Court of Appeals reasoned that a landlord owes a duty of care to protect tenants from foreseeable harm at the hands of other tenants. It then stated: "it is difficult to imagine a case in which the foreseeability of harm could be more clear." The court reversed the lower court's ruling and ruled in favor of Madhani.

### **Case Review: *McDaniel v. Sunset Manor Co. (1990)***

The case, *McDaniel v. Sunset Manor Co. (1990)* 220 Cal.3d 1., involved a tenant being critically injured as a result of a property's ill-constructed fence.

A property owner (Sunset Manor Co.) managed a large federal apartment complex that housed over 300 children and many families. The complex was located next to a creek. After tenants raised concerns about safety, Sunset Manor Co. constructed a large wooden fence between the property and the creek. The fence had many holes in it that could be swum through, however, even by a large adult. One day, the two-year-old daughter of a tenant (McDaniel) swam through the fence onto an adjacent property and was critically injured. Ultimately, the accident left the daughter brain damaged. McDaniel sued Sunset Manor Co. for its negligence in maintaining the fence.

The Superior Court ruled in favor of Sunset Manor Co. McDaniel appealed. The Court of Appeals argued that Sunset Manor Co. had not been responsible for building a fence on the property in the first place. However, as it had built the fence, it had subsequently incurred the duty to maintain it in a secure manner. The fact that the fence had defects that allowed people to swim through it made Sunset Manor Co. liable. Sunset Manor Co. argued that it was not guilty because the daughter's injuries were sustained on an adjacent property. The court reasoned that this did not bar a property owner from liability. The court reversed the lower court's ruling and found Sunset Manor Co. guilty.

### Case Review: *Davis v. Gomez* (1989)

The case, *Davis v. Gomez* (1989) 207 Cal.App.3d 1401., involved liability for a wrongful death that occurred on a property.

A tenant (Ms. Townsend) lived in a building owned by a landlord (Gomez). Another tenant (Davis) also lived on the property with her son (Tyrone). Over time, Ms. Townsend's mental state began to deteriorate. She would talk to herself out loud and try to cast spells on other tenants who walked by her apartment. Several tenants informed Gomez of Ms. Townsend's peculiar behavior. A police officer tenant also relayed that he had seen a gun in Ms. Townsend's living room and that he was worried about the other tenants' safety. Gomez said he would look into it. Not long after, Ms. Townsend shot and killed Tyrone.

Davis brought legal action against Gomez for his failure to prevent actions that she considered to be foreseeable. She also argued that Gomez did not investigate Ms. Townsend's background prior to renting a property to her.

The Superior Court ruled that Gomez had no duty to conduct a background check on Ms. Townsend prior to renting to her. Because Ms. Townsend was experiencing mental problems, and Gomez was not a professional psychologist, he also could not be held responsible for her mental state. The court reasoned that while Ms. Townsend's behavior had been generally strange prior to her shooting Tyrone, it had not been directly threatening. Therefore, it was not reasonably foreseeable that Ms. Townsend would shoot Tyrone. The court ruled in favor of Gomez.

### Recreational User Immunity

The concept of **recreational user immunity** provides one exception to a landlord's liability for individuals on the property:

*"An owner of any estate, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, or activities on such premises to persons entering for such purpose." (Civil Code Section 846)*

Therefore, when tenants, guests, and/or neighbors use a recreational portion of the property, they are liable for themselves and any injuries that occur.

For example, if a tenant uses a swimming pool on the property and injures himself while jumping off the diving board, the landlord cannot be held liable.

The law does not extend to a landlord's willful failure or intentional desire to inflict pain or suffering, however.

## **Termination of a Lease**

A landlord is not required to renew a lease, or to allow a tenant to continue living on a property. It is the tenant's responsibility to negotiate a lease renewal with the landlord prior to its expiration.

A lease agreement can be terminated for the following reasons:

- Lease period expires
- Tenant violates the lease, including:
  - Fails to pay rent
  - Uses property for illegal activity
  - Interferes with the quiet enjoyment of other tenants
  - Fails to give up possession of the property
- Landlord violates the lease
- Tenant surrenders his or her rights to the property
- Tenant abandons the property
- Landlord evicts tenant
- Property is foreclosed/sold/transferred/merged into another entity
- Property is converted
- Public entity takes over the property (such as through eminent domain)
- Property is severely damaged and landlord doesn't make the necessary repairs
- Property is destroyed

## **Surrender**

**Surrender** in real estate refers to when a tenant forfeits his or her right to a property. When a tenant surrenders, the original lease is terminated. In order for a lease to be terminated, however, the landlord must consent.

If a landlord allows a tenant to surrender, the tenant will be removed from the lease and will no longer be bound by its terms. Surrender is assumed when a landlord accepts a tenant's keys.

A landlord has the legal right to turn down a tenant's request to surrender the property. If a tenant leaves without a landlord's acceptance of his or her surrender, however, the tenant may be held liable for back rent and damages.

After the conclusion of a surrender, a landlord and tenant are no longer legally obligated

to one another.

## Converted Property

If a landlord wishes to convert a tenant-inhabited property into another type of property (i.e. condominium), the landlord is responsible for the wellbeing of the existing tenants.

The landlord is required to:

- Inform tenants 90 days prior to the property being offered for sale
- Inform tenants that their leases will be terminated if the property is sold
- Give tenants at least 180 days advance written warning prior to the termination of their leases
- Provide tenants with a final map within 10 days of the proposed conversion
- Make available to each tenant a list of available vacant rental units within a one and a half mile radius
- Make a good faith effort to assist and verify that tenants without a car have the necessary transportation to view available units
- Hire a specialized vehicle service to transport handicap or disabled people to view available units

A **nondisturbance clause** is a provision in a rental agreement where the lease will continue for the specified period of time, regardless of the property owner's situation. This protects the interests of a tenant in the event that the property is sold, foreclosed, or converted.

## Forfeiture

Before a landlord can force a tenant to forfeit the rights of a property, a written **demand letter** must be presented to the tenant. This letter outlines the steps to remedy the forfeiture.

**Forfeiture** permits a landlord to re-enter the property after a valid breach has occurred. A breach of the contract would effectively terminate the lease. The length of time it takes to take over a property through forfeiture depends on the reason for the forfeiture.

To institute a forfeiture claim, the landlord will need to establish the reason for the claim. The easiest way to legally do this is to cite a clause in the lease that was violated. Landlord's can also initiate forfeiture claims even if a specific clause in the lease is not being cited. A tenant's breach of a lease is grounds for forfeiture. The right of forfeiture should be exercised with caution because of the legal ramifications against the landlord if done incorrectly. Legal advice should be sought to avoid potential legal issues.

Any lease provision relating to a forfeiture of the property must be indicated clearly.

Such provisions must also be fair and cannot include unreasonable or impossible demands. If they do, they risk being deemed unenforceable provisions.

For example, attempting to forfeit a tenant's use of a property because of a single missed rental payment is considered an unreasonable forfeiture.

Acceptance of payment by the landlord acknowledges the tenant's continued use of the property. If a lease ends, but a tenant continues using the property and making payments that the landlord deposits, the lease will usually renew automatically on a month-to-month basis. Automatic renewal of a lease can only occur if such a provision was indicated in the lease, however.

## Eviction

**Eviction** occurs when a landlord expels a tenant from a property.

The following are valid reasons for a landlord to evict a tenant:

- Failure to make timely rental payments
- Violating the terms of the lease (i.e. engaging in criminal activity, keeping pets when it is not permitted)
- Disturbing other tenants' right to quiet enjoyment
- Endangering other tenants and/or guests
- Damaging the property

Due to the sustained loss that eviction can have on a landlord and/or a tenant, and the possibility for escalation, California prioritizes eviction cases over almost all other types of cases (except criminal cases).

## Eviction Process

California law strongly protects the interests of tenants. Therefore, a landlord does not have the legal right to forcibly remove a problem tenant. Rather, there is a strict eviction process to which a landlord must adhere.

The steps in the eviction process are:

- Landlord provides tenant with a "Cure or Quit" notice
- Landlord files an unlawful detainer lawsuit against tenant
- Court issues a writ of possession

In order to initiate the eviction process, a landlord must provide a tenant with a proper notice. This notice is known as a "Cure or Quit" (or "Pay Rent or Quit" or "Vacate or Quit"). The notice is used to inform a tenant that a lease violation has occurred and that

an eviction is imminent unless the tenant corrects his or her actions.

In California, it is common practice for a landlord to give a tenant a three-day notice. If a tenant does not correct his or her actions within those three days, or fails to respond, the landlord can file an unlawful detainer action with the Superior Court in the property's jurisdiction.

An **unlawful detainer action** is a court hearing where a landlord and a tenant have the right to present their cases in front of a judge. A judge will typically hear an unlawful detainer case within 20 days of a landlord's application. The tenant must respond to the detainer within five days or risk losing the hearing by default.

It is the responsibility of the landlord to prove that a tenant violated the specifics of the lease agreement and should therefore be evicted. If a landlord is unable to prove grounds for eviction, a court will likely rule in favor of a tenant. In that case, the landlord may be responsible for covering the tenant's attorney fees and court costs.

If a tenant is found guilty, the court will issue a writ of possession. A **writ of possession** grants a landlord the ability to evict the tenant and orders a guilty tenant to vacate the property. A tenant has five days to vacate the premises after a writ of possession is issued. If a tenant fails to do so, local law enforcement may be called in to remove the tenant. Local law enforcement also has the right to seize a tenant's personal property. If a landlord is forced to go to such lengths to evict a tenant, a judgment will be placed on the tenant's credit.

### Illegal Evictions

The following are not valid reasons for a landlord to evict a tenant:

- A tenant informed a landlord of a defect or necessary repair on the property
- A tenant informed a government safety agency or public health inspector about the inhabitability of a property or a code violation
- A tenant complained about a landlord's management style
- A tenant used collective bargaining by creating a tenant organization or union, or engaged in tenant activist behavior

### Retaliatory Eviction

If a landlord seeks to evict the tenant for the aforementioned reasons -- in short, if a landlord "retaliates" against a tenant -- it is known as a **retaliatory eviction**. A tenant can make a retaliatory eviction claim as a defense to an eviction action.

It is against the law for a landlord to impose impossible demands or measures upon a tenant to prevent them from living on the property. A landlord also cannot threaten a tenant's right to use the property to its maximum benefit.

Examples of illegal landlord behavior with the intention of retaliatory eviction include:

- Changing a unit's locks
- Removing or replacing doors
- Blocking a tenant's car
- Turning off a tenant's water, heat, or electricity
- Withholding or disposing of a tenant's personal items
- Harassing or threatening a tenant
- Raising the rent substantially to prevent a tenant from renewing an agreement
- Filing an unscrupulous eviction lawsuit

### **Constructive Eviction**

**Constructive eviction** occurs when a residential rental property is in an uninhabitable condition and that living on the property is detrimental to a reasonable tenant. This includes the landlord's failure to keep the property in proper safe condition and/or violating the tenant's right to quiet enjoyment.

Under these circumstances, a tenant is deprived of the full use and possession of the property that was promised in the lease. The tenant has, for all intensive purposes, been "evicted".

A landlord can be held liable if the conditions of the property warrant the tenant vacating the property or violating the terms of the lease through constructive eviction.

Examples of illegal landlord behavior that leads to constructive eviction include:

- Failing to maintain the property in habitable condition
- Failing to make required repairs that pose a safety risk
- Making unnecessary repairs that affect a tenant's right to quiet enjoyment
- Otherwise interfering with a tenant's right to quiet enjoyment
- Harassing or threatening a tenant
- Violating a tenant's right to privacy
- Entering a tenant's unit without permission

Failure to follow the legal eviction process may subject a landlord to penalties and fees of up to \$100 a day for as long as the landlord uses unlawful eviction methods.

#### **Case Review: *Camacho v. Schaeffer (1987)***

The case, *Camacho v. Schaeffer (1987) 193 Cal.App.3d 718.*, involved a dispute regarding a landlord's unlawful eviction.

A tenant (Camacho) rented from a landlord (Schaeffer). The conditions on the property were uninhabitable: there were holes in the ceiling, no hot water, interrupted gas service, and an infestation of rats and cockroaches. Consequently, Camacho withheld rent payments. In an attempt to evict him, Schaeffer entered Camacho's apartment without permission and removed the bed, sofa, tables, and chairs. Camacho went to the police and got a restraining order against Schaeffer. Despite the order, Schaeffer returned to Camacho's apartment, broke down the door, and removed Camacho's refrigerator. Camacho sued.

The Superior Court ruled that Schaeffer did not follow the legal eviction process and had employed threatening behavior towards Camacho. It ruled in favor of Camacho and awarded him damages in excess of \$30,000.

### **Case Review: *Channing Properties v. City of Berkeley* (1993)**

The case, *Channing Properties v. City of Berkeley* (1993) 11 Cal.4th 88., involved a dispute regarding a property owner giving proper notice and relocation reimbursements when it closed its apartment building.

A property owner (Channing Properties) owned a 33-unit building. At some point, it decided to take the rental units off the market. The City of Berkeley required Channing Properties to give tenants 180 days notice to move, rather than the standard 60 days notice that was required by state law. The City also required Channing Properties to pay each tenant \$4,500 for relocation costs. Channing Properties sued the City over its stringent laws.

In court, Channing Properties indicated that the increased measures required by the City of Berkeley put an undue burden on property owners. The court ruled in favor of Channing Properties.