

Tenant-Landlord Advising FAQ

1) My landlord didn't give us an itemized list of deductions within 21 days of us vacating the rental. Can he keep our deposit?

If the landlord does not give you an itemized list within the 21 days allowed by [California Civil Code 1950.5](#), he or she forfeits his or her right to retain *any* of the deposit and must return *all* of it to you and then take you to court to prove the deductives are valid. If he doesn't, it could be considered 'bad faith' on his part, resulting in a penalty of twice the amount of the deposit, if the case went to court. You may need to take them to small claims court. This is why it is always a good idea to take photos that highlight the condition of the property when you moved out.

The process allowed in CCC 1950.5 is a unique process intended to allow a reasonable and fair way of dealing for both tenants and landlords. However, if the landlord does not follow this procedure correctly, he/she loses the right to use it.

2) My landlord didn't tell me I had a right to a pre-move out inspection and did not do one. Now he wants to keep my deposit. Is this right?

No, it is not right since the landlord has not followed the process determined in CCC1950.5 (see question #1) which requires the landlord to offer a pre-move out inspection *in writing*. The landlord must notify the tenant of their right to a pre-move out inspection AND to their right to be present at the pre-move out inspection in writing. It should have been done within two weeks prior to your move-out date.

They also **MUST** give the tenant a written itemized list of what needs to be "cured"--cleaned, fixed, whatever the situation--**at the time of the pre-move out inspection**. If they don't do this, they may not keep your deposit. They should return the deposit and then they can take you to court to prove damages. It might be necessary to sue the landlord in court yourself, however. Good faith is a very important part of tenant-landlord law. Not only must the tenant be given written notice of any deficiencies; they must also be given enough **time** to "cure" them. A pre-move out inspection two days before actual move out, for example, is not giving the tenant enough time to "cure".

3) My landlord won't give me a copy of my rental agreement. What do I do?

Your landlord is required by law, [California Civil Code 1962](#), to give you a copy of the rental agreement within 15 days of it being executed and additionally once a calendar year if you request it. Mail the landlord a letter requesting a copy of the contract along with the copy of the civil code.

We recommend written agreements, but if you have a verbal agreement, the landlord must still provide these key items to you in writing:

1. Name, telephone number, and street address of manager or owner for serving notice
2. Who to pay the rent to and where
3. How you are to pay rent

4) Our landlord is evicting all of us because one of our roommates violated our lease. We haven't done anything wrong and really want to stay but she won't agree to it. Can she do that?

A landlord can legally hold all co-tenants responsible for the negative actions of just one, and terminate everyone's tenancy with the appropriate notice. For example, three co-tenants can be evicted even if only one of them seriously damages the property or otherwise violates the lease or rental agreement.

5) Our housemates aren't getting along. We all want to split up. How can we break our lease?

Tenants can break a lease; however, it can be a very expensive proposition. When a tenant breaks a lease, they are financially responsible for all advertisement and administrative costs, and are liable for lost rental income until the unit is re-rented or until the end of the term of the lease if a replacement tenant is not found. A landlord is legally required to try to find a replacement tenant and cannot unreasonably reject a similarly qualified tenant. However, a landlord can require an entire household to leave when only one tenant wants to break a lease.

Keep in mind, when there are a lot of vacant rentals in the market, re-renting your unit or room will not be easy. We recommend you try compromising and if that doesn't work or you have already tried, use the [Campus Conflict Resolution Services](#).

If you do decide to break your lease because the other options are still not working, we highly recommend you contact California Rural Legal Assistance at 831-688-6535. If no one in your household qualifies, you can contact [Lawyers Referral](#). Contact information is found on CRO's advising referral web page.

6) We don't agree with the deductions our landlord took out of our security deposit. We know we are responsible for some of it but not all he took. Also, some of the damage was done by a tenant who left last year, not any of us. What should we do?

You should voice the reasons for your dispute in writing, in detail. As with all rental papers, keep a copy for yourself. Both the tenant's and landlord's responsibilities are spelled out in the [California Civil Code 1950.5](#). Read the code and make sure the landlord followed procedure and that you understand your rights and responsibilities. Include a copy of it in your correspondence to your landlord.

Before you write the letter, research the issue you are having with your landlord in [the California Tenants handbook](#). This will give you a printable PDF file of the latest version of the handbook. Isolate your issue and print out that section. There is a lot about security deposits in the booklet. Narrow the search by using "painting" and "carpets" or "carpet cleaning" as a search parameter instead of "security deposit" to get you closer to the pages you need. Take some time to find language that supports what you believe is not being settled fairly. Send a copy along with your dispute.

Regarding what a previous tenant did, the remaining household is responsible for dirt and damages based on the difference between the condition when a group moved into an empty house and the condition when the final group moved out, no matter who did the damage. The damage that was done should have been accounted for when he or she moved out.

7) We put in an application to one property manager but before they processed it we found another place. Now, we want our rental application packet back. They won't give me the entire packet, only my portion. They want all of us to come in and get our own sections. This seems really unreasonable. What can we do?

Actually, that property manager is following the law which was written to protect you. They are not allowed to give confidential information out to anyone but the person who gave it to them and who it is regarding. They also must require you bring photo ID. If they had run your credit report, they would be required to keep the application with your authorization for the credit check on it for a number of years.

8) I applied to rent a room in a home but the landlord will only live with someone who is the same religion as she is. Is this legal?

No, a landlord cannot discriminate on the basis of race, color, national origin, religion, familial, marital or handicap status, sexual orientation, sex, or age. There is an exception to discrimination laws, however, regarding sex but only when a landlord rents a room in the home they also occupy. A landlord can choose which sex with whom they wish to live.

9) The rental I am living in is going through foreclosure. How much notice will I be given to move?

If the old landlord did not give you notice before the foreclosure took place, the new landlord must give you a 90 day notice to vacate and honor the remaining rights under your rental agreement during the 90 days. If you had a lease that extended beyond the 90 days, that lease is not in effect after the 90 days expires. If you had a month-to-month agreement or a verbal agreement, you get 90 days notice. There are some exceptions you should research to make sure it applies to your situation. This act is called "[Protecting Tenants at Foreclosure Act of 2009](#)" and it terminates Dec 31, 2012.

Sources: California Rural Legal Assistance, Watsonville; NoloPress.com;
California Tenants, A Guide to Residential Tenants' and Landlords' Rights and Responsibilities by
Consumer Affairs, Sacramento, CA, Fair Housing and Equal Opportunity Office.