

## HOW TO GET BACK POSSESSIONS YOU HAVE LEFT IN A RENTAL UNIT

*October 1996*

When tenants move out of a rental unit, they are also required to move out their possessions. However, tenants may mistakenly leave behind possessions or may not have time to remove all of them.

California law has specific steps that you may take to have your possessions which were left in the rental unit returned by the landlord.<sup>1</sup> If you have moved out of your rental unit, but have left some of your possessions behind, you may follow this guide to have them returned. When you have properly followed the steps described below, the landlord is required by law to return your things. If the landlord doesn't, the landlord is liable for damages which may include the value of your property and up to a \$250.00 penalty.

In addition to the steps that a tenant can take to request that possessions be returned, California law has two other procedures which a landlord may follow to dispose of possessions left in a rental unit after the rental unit has been vacated. The two procedures are for possessions which appear to have been abandoned, and possession which have been lost. Neither of these procedures will be discussed here, but are discussed in a separate legal guide.

**Please note:** If your landlord, or the landlord's agent or manager, doesn't have your possessions (or doesn't have control over your possessions), you can't use the procedure discussed below.<sup>2</sup>

### **What steps should a tenant take to get possessions returned?**

A tenant who has left possessions behind in a rental unit and wants to get them back should take the following steps:

1. 1. Within 18 days after moving out, write the landlord a letter.
  - Asking the landlord to return the possessions you left behind.
  - Describing the possessions.
  - Stating your current mailing address.
  - Sign and date the letter.
  - Make a copy of the letter for yourself. It is best if you either send the letter certified mail, or ask for a receipt if you deliver it in person.
1. 2. If the landlord properly asks you to do so, pay the landlord his or her reasonable costs for removing and storing your possessions.

2. 3. Talk to the landlord and agree to a time when you will claim and pick up your possessions. You both must agree to a time that is no more than 72 hours (three days) after the time when you paid the landlord's costs. If no costs were paid, you should agree to pick up the possessions within a reasonable time after the landlord received your letter. The law assumes that three days is a reasonable time.

3. 4. Pick up the possessions at the agreed place and time.<sup>3</sup>

### **What if the tenant is unable to take those steps?**

If you have moved out of town, are ill or are otherwise unable to take these steps, you can ask a friend or relative to do them for you. This person will be acting as your authorized representative.<sup>4</sup> Although not required, it is a good idea to write a note to the landlord telling the landlord that your friend or relative is going to act on your behalf and giving the landlord the other person's name. Sign and date the note, and have your friend or relative sign it, too. Make two copies of the note -- one for your friend and one for yourself.

### **How must a landlord demand payment for costs?**

Before a tenant is required to pay a landlord's costs for removing and storing possessions, the landlord must follow the proper legal steps.

To require the tenant to reimburse the landlord's reasonable costs, the landlord must:

1. 1. Within five (5) days after receiving the tenant's letter requesting return of the possessions, write the tenant a letter, and in the letter:

- Ask the tenant to pay reasonable costs of removing and storing the tenant's possessions.
- Individually list all the items of cost which the tenant is being asked to pay, telling the tenant the amount of each charge and what each charge is for.

1. 2. Mail the letter to the tenant at the mailing address which was given in the tenant's letter, or give the letter to the tenant personally.

The landlord must make the request for payment in writing.<sup>5</sup> An oral request is not enough.

### **What costs can a landlord charge?**

The costs which the landlord is allowed to charge must be costs related to removing the tenant's possessions from the rental unit and storing it. The costs must be reasonable,<sup>6</sup> and may include:

1. The landlord's actual expenses for:
  - Removing the tenant's possessions from the original location to the place of storage.
  - Taking apart the tenant's possessions, if needed, to move them.
  - Transporting the tenant's possessions from their original location to the place of storage.

**OR**

- The reasonable value of the labor actually provided to remove the tenant's possessions, to take them apart, and/or to transport them.<sup>7</sup>

**AND**

1. 2. The landlord's actual expenses for storing the tenant's possessions, provided they are reasonable.

The storage costs cannot be more than the fair rental value of the space reasonably required to store the tenant's possessions.<sup>8</sup> That is, if all the tenant's possessions would fit in a mini-storage unit of 10 cubic feet, the landlord is not entitled to receive payment for the cost of renting 15 cubic feet. Other costs are also permitted, as long as they are not unreasonable and are related to removal and storage of the tenant's possessions.<sup>9</sup>

### **What if the landlord fails to return the tenant's possessions?**

If you have properly followed all of the steps mentioned above, but the landlord has failed to return your possessions at the agreed time or within a reasonable time after you have asked for their return, whichever is later, the landlord is liable to you for damages. The law assumes that three days is reasonable amount of time, unless the landlord demands reimbursement for removal and storage of expenses, in which case the three day period begins to run upon the tenant's payment of the landlord's storage costs.<sup>10</sup>

The landlord may be required to pay damages equal to the value of your possessions, and to pay up to \$250 as a penalty.<sup>11</sup> If you win in court, the landlord also may be ordered to pay your attorney's fees and court costs. However, if the landlord wins in court, you may be ordered to pay his or her attorney's fees and court costs.<sup>12</sup>

### **Can a tenant sue a landlord who, without the tenant's permission, gave the possessions to someone else?**

No. If the landlord has followed the law, but has ended up giving your possessions to the wrong person, the landlord cannot be sued.<sup>13</sup> If a landlord has complied with the law, then the law protects the landlord.

This could happen when more than one tenant has left possessions in a rental unit. For example, Terry Tenant writes the landlord asking that her possessions be returned. The landlord, following the proper steps, gives Terry the possessions she claimed. Later, Oscar Owner, who also left possessions at the rental unit, writes the landlord asking for his property to be returned. However, Oscar's possessions were claimed and picked up by Terry. Oscar can't sue the landlord. Oscar should ask Terry to return his possessions, and may sue her if she doesn't return them.

### **What happens if a landlord receives conflicting demands for the same possessions?**

If a landlord receives two letters from two tenants or their representatives who are both asking for the same possessions that were left in the rental unit, the landlord must give the possessions to the person who first requested return of the possessions. In that situation, the landlord is legally protected from being held liable for releasing the possessions.<sup>14</sup> The law doesn't require that the landlord try to guess or try to decide who is the true owner.

**NOTICE: We attempt to make our legal guides accurate as of the date of publication, but they are only guidelines and not definitive statements of the law.**

1. *Civil Code section 1965.*
2. *Civil Code section 1965 (a)(2).*
3. *Civil Code section 1965 (a).*
4. *Civil Code section 1965 (a).*
5. *Civil Code section 1965 (a)(3).*
6. *Civil Code section 1965 (a)(3).*
7. *Civil Code section 1965 (b)(1).*
8. *Civil Code section 1965 (b)(2).*
9. *Civil Code section 1965 (b).*
10. *Civil Code section 1965 (e)(1).*
11. *Civil Code section 1965 (e)(1) and (e)(2).*
12. *Civil Code section 1965 (e)(3).*
13. *Civil Code section 1965 (d).*
14. *Civil Code section 1965 (d).*

Source: California Department of Consumer Affairs