



WHO IS A LANDLORD AND WHO IS A TENANT?

GENERAL INFORMATION ABOUT LANDLORDS AND TENANTS

A **landlord** is a person or entity that owns a rental unit. The landlord rents the rental unit to another person, called a **tenant**, for the tenant to live in. The tenant obtains the right to the exclusive use and possession of the rental unit during the **rental period**.

Sometimes, the landlord is called the owner, and the tenant is called a resident.

A **rental unit** is an apartment, house, duplex, condominium, accessory dwelling unit (ADU), room, or other structure or part thereof that a landlord rents to a tenant to live in. Because a tenant uses the rental unit to live in, it is called a residential rental unit or dwelling unit.

Often, a landlord will retain a **rental agent** or **property manager** to manage their rental property. The agent or property manager is compensated by the landlord to represent the landlord's interests. In some instances, the tenant will deal with the rental agent or property manager on behalf of the landlord. In other instances, the tenant will deal directly with the landlord. For example, a tenant can work directly with the agent or property manager to resolve problems with the rental unit. When a tenant needs to give the landlord one of the required notices described in this booklet, the tenant can give that notice directly to the landlord's rental agent, property manager, or another person if that person is identified in the rental agreement to receive service.

The name, address and telephone number of the person authorized to receive legal notices on behalf of the owner (such as a property manager or owner if no property manager is used) must be written in the rental agreement, or posted conspicuously in the rental unit or building.¹

SPECIAL SITUATIONS

The tenant's rights and responsibilities discussed in this booklet apply only to people whom the law defines as tenants. Generally, under California law, **lodgers** and residents of hotels and motels living in these locations for more than 30 days have the same rights as tenants.² The rights and responsibilities of lodgers and residents of hotels and motels are discussed in the "Special Situations" section.³

Special Situations

Hotels and motels

If you are a resident in a hotel or motel, you do not have the rights of a tenant if you are in any of the following situations:

1. You live in a hotel, motel, residence club, or other short-term lodging facility for 30 days or less, and your occupancy is subject to the state's hotel occupancy tax.
2. You live in a hotel, motel, residence club, or other lodging facility for more than 30 days, but have not paid for all room and related charges owed by the 30th day.
3. You live in a hotel or motel to which the manager has a right of access and control, and all of the following is true:
 - o The hotel or motel allows occupancy for periods of fewer than seven days.
 - o All of the following services are provided for all residents:
 - a fireproof safe for residents' use;

- a central telephone service;
- maid, mail, and room service; and
- food service provided by a food establishment that is on or next to the hotel or motel grounds and that is operated in conjunction with the hotel or motel.

If you live in a unit described by either 1, 2, or 3 above, you are not considered a tenant. Rather, you are considered a **guest**. Therefore, you do not have the same rights as a tenant.⁴ For example, a hotel manager can lock out a guest who does not pay his or her room charges on time, while a landlord cannot resort to self-help eviction measures by locking the tenant out and must follow formal eviction proceedings to evict a nonpaying tenant.

Residential hotels

If a residential hotel serves as your primary residence, you possess some of the same legal rights as a tenant.⁵ A residential hotel is any building containing six or more guestrooms designed, used, rented or occupied for sleeping purposes by guests, and which serves as the primary residence of those guests.⁶ A locking mail receptacle must be provided for each guest of a residential hotel.⁷

It is unlawful for the manager of a residential hotel to require a guest to move or to check out and re-register before the guest has lived there for 30 days, if their purpose is to have the guest maintain transient occupancy status (and, therefore, not gain the legal rights of a tenant).⁸ A person who violates this law may be subject to a \$500 civil penalty and may be required to pay the guest's attorney fees.

Single lodger in a private residence

A lodger is a person who lives in a room in a house where the owner lives. The owner may enter all areas occupied by the lodger and has overall control of the house.⁹ Most lodgers have the same rights as tenants.¹⁰

However, in the case of a single lodger in a house where there are no other lodgers, the owner can evict the lodger without using formal eviction proceedings. Instead, the owner can give the lodger written notice that the lodger cannot continue to use the room. The **amount of notice** must be the same as required for any other periodic tenancy (see Landlord's notice to end a periodic tenancy). After the owner has given the lodger proper notice and the applicable time period has expired, the lodger has no further right to remain in the owner's house and may be removed as a trespasser if they refuse to leave.¹¹ However, the lodger may dispute their status as a lodger which may necessitate an unlawful detainer action to be filed by the owner to obtain a writ of possession to remove the lodger.

Transitional housing

Some residents may actually occupy "transitional housing." Transitional housing provides lodging and services to formerly homeless persons for periods of 30 days to 24 months. Residents of transitional housing, who do not pay rent to occupy that housing, are generally referred to as "participants" and are subject to specific behavior rules and eviction procedures.¹² If rent is paid, then they will be considered tenants.

Mobilehome parks and recreational vehicle parks

Most landlord-tenant relationships in mobilehome parks and recreational vehicle parks are governed by the Mobilehome Residency Law¹³ and the Recreational Vehicle Park Occupancy Law.¹⁴

However, normal landlord-tenant law, including eviction procedures, must be followed for certain mobilehome residents. Specifically, a person who leases a mobilehome from its owner (where the owner has leased the site for the mobilehome directly from the management of the mobilehome park) is subject to landlord-tenant law procedures

described in this booklet and not any of the in the Mobilehome Residency Law. The same is true for a person who leases occupancy in a mobilehome from the park management.

You can find more information on the Mobilehome Residency Law by accessing the following link: <https://www.hcd.ca.gov/manufactured-mobile-home/mobile-home-ombudsman/mobilehome-resident-rights.shtml>.

¹ Civil Code (“Civ. Code”) §§ 1961, 1962 and 1962.5; Moskowitz et al., California Landlord-Tenant Practice, § 1.30 (California Continuing Education of the Bar (“Cont.Ed.Bar”) 2020). ² Civ. Code § 1940(a). ³ See additional discussion in Moskowitz et al., California Landlord-Tenant Practice, §§ 1.3-1.7 (Cont.Ed.Bar 2002, 2005, 2009, 2011, 2016, 2020). ⁴ Civ. Code § 1940. ⁵ Health and Safety Code (“Health & Saf. Code”) § 50519(b) (1). California Practice Guide, Landlord-Tenant, §§ 2:39, 2:40 and 7:6.2 (Rutter Group 2020). ⁶ *Ibid.* ⁷ Health & Saf. Code § 17958.3; Civ. Code § 1941.1(a)(9); California Practice Guide, Landlord-Tenant, § 3:21a (Rutter Group 2020). ⁸ Civ. Code § 1940.1. Evidence that an occupant was required to check out and re-register creates a rebuttable presumption that the proprietor’s purpose was to have the occupant maintain transient occupancy status. (Civ. Code § 1940.1(a).) This presumption affects the burden of producing evidence. ⁹ Civ. Code § 1946.5(c). ¹⁰ Civ. Code § 1940(a); California Practice Guide, Landlord-Tenant, § 2:39, (Rutter Group 2020). ¹¹ Civ. Code § 1946.5; Penal Code (“Pen. Code”) § 602.3. ¹² Civ. Code §§ 1954.10-1954.18. ¹³ Civ. Code §§ 798-799.10. Moskowitz et al., California Landlord-Tenant Practice, §§ 6.2-6.12 (Cont.Ed.Bar 2020). ¹⁴ Civ. Code §§ 799.20-799.79.

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