

THE DANGERS OF DELAYING ACTION AGAINST NON-PAYING TENANTS

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BOMA
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With the economy being down and our stress levels elevated, what can we do to balance work and life? Fitness is a great release of our daily stresses in life. Come and hear about ways to reduce your stress and accomplish your balance in life.

In today's economic climate many landlords and property managers face the problem of non-paying tenants. By not acting quickly, it can cost more than you may think.

Many landlords and property managers think that when rent is not paid on the first all they are out is that month's rent. Unfortunately, this is not the entire story. Experience has taught me that the partner of non-payment of rent is damage to the rental property. Remember that actions speak louder than words and when a tenant misses their rent payment their actions are saying that something in their life is profoundly wrong. It could be a lay-off, a substance abuse issue or other problem, but the bottom line is that this person has told you that they are having problems—and often those problems spill over to the destruction of the rental property. Even more troubling is that some tenants have been known to damage their unit on purpose and then blame the landlord for the damage as a defense to an eviction.

Because of these dangers, as soon as the rent is late the landlord or property manager must take quick action. The best strategy is to start with a 3-day notice to pay rent or quit (prepared by an attorney) and a notice to inspect. The 3-day notice lets the tenant know you are serious and gives them three days to pay without breaking their lease. If you get the money then you know that the tenant is serious about staying and paying. If you get no response then you know that the tenant has decided to stay for free and you can immediately start the eviction (in California called Unlawful Detainer). The faster you regain possession of the rental unit, the faster you can get a paying tenant in place.

Another good tactic to couple with the 3-day notice is to give a written notice of intent to invade to perform a plumbing and maintenance inspection. At the inspection, take pictures of each room. Later, if the tenant brings pictures of a broken sink or hole in the wall, you will have proof to show that the damage was done after the service of the 3-day notice and that it was done by a tenant trying to pull a fast one.

Besides restoring cash flow and preventing damage to the unit, action must be taken quickly because any delay will be held against the landlord/property manager. On a recent case, the property manager waited six months before issuing a 3-day notice. They tried working out a payment plan with the tenant and giving them more chances. When the case went to trial, the judge assumed that the property manager delayed because of habitability problems and almost dismissed the case on that basis alone.

Remember even long-term tenants can turn bad so take action quickly to avoid more lost rent and damage to the unit. To make the process as fast as possible retain an experienced real estate attorney.

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The Law Offices of Andres Sanchez was founded in 2005 with a special focus on real estate law in the San Francisco Bay Area. Mr. Sanchez is a graduate of the top-rated Baylor University School of Law with additional study at the University of Paris. Please contact us for a no obligation consultation at (415) 283-4764.