

Radio Show – March 7, 2013, With Host, Ryan White

“Top Ten Mistakes Landlords make.”

#10. Failure to use the proper lease agreement.

- Get it in writing – required by law if one year or longer.

- Leases are legal documents. They are contracts between the landlord and the tenant. They set forth the rights and obligations of each party, so they need to be right. You shouldn't just wing it and hope for the best.

- the law is organic; it changes, and what might have been fine a few years ago, may not be now. An extreme example is that years ago landlords could refuse to rent to tenants based discriminatory factors, such as gender, race, and religion, or waterbeds. Obviously that is no longer the case.

Example 2: Waterbeds: building built after 1/1/73;

Tenant may be required to have insurance policy (\$100k);

Bed must conform to weight load of floor;

LL can increase security dep. 50% of 1 month's rent.

- Also, a residential lease agreement would not be proper for a commercial property.

A. Use tested form lease agreements.

- Several good ones available: CAR (Calif. Assoc. of Realtors). Rutter Group, Californian Practice Guide, Landlord Tenant Law has good one.

- Comprehensive, tried and tested.
- Include Calif.- required disclosures:
 - ordinance locations,
 - shared gas or electric meters

B. Use lease appropriate for your type of property and location.

- Some cities and counties have rent control ordinances.

- Commercial properties have vast differences in landlord/tenant rights and obligations.

C. When in doubt have a lawyer review it – *before you rent!*

- Unfortunately, lawyers are often not consulted until a dispute develops and then it is much worse than it should have been.

- Lawyers can be used very effectively for preventing problems.

#9. Choosing the wrong tenant.

A. Get and follow-up on references.

- Use rental application forms. Get past address history.
- Don't be too quick to rent to someone.

- better to do a thorough job checking out potential tenants.

B. Perform a credit check.

- Must inform prospective tenant and obtain their written permission.
- determine whether tenant can pay rent.
- verify identity.

C. Perform a search of court records.

- can be done online in most counties. Certainly in San Diego County. However, you may not find eviction cases . But you can find most other cases, including criminal cases. SDCourt.CA.gov.

- Some credit search companies will include this report.
- LL can charge prospective tenant actual credit search fee.

*** Landlord may not require U.S. citizenship and may inquire about it when interviewing prospective tenants CC 1940.3 (b)

#8. Not getting enough security.

A. Get enough of a security deposit. CC 1950.5...

- Equal to Two month's rent plus first month's rent (unfurnished) or three month's rent for furnished. But don't label it "last month's rent"

- First, last month, plus:
 - cleaning deposit
 - repair of damages beyond ordinary wear and tear
 - remedy future defaults (lease must specify).

B. Have someone else guarantee lease (parent?).

- important for LL's renting to students or...
- where unmarried adults are sharing premises, where their might be a dissolution of relationship.

C. Require insurance/obtain insurance.

- require tenant to have renter's insurance
- waterbeds, animals.

#7. Not performing a pre-move-in walkthrough with tenant.

A. Videotape it.

- walk around with tenant with cell phone or video camera running. Have them introduce themselves and state they are granting permission to record walkthrough.

B. Document any and all issues.

- wear and tear, repairs, state of cleanliness

C. Have tenant sign approval of condition of premises.

- if walk through isn't videotaped.

#6. Not performing periodic inspections.

A. Right to inspect on reasonable notice.

- limited by code, but you can request entry

- 24 hours notice considered reasonable. CC 1954

- Can't harass tenant.
- One client receives reports of possible plumbing leaks when she wants to make an inspection.

B. Document inspections with video. Same rules as before.

C. Get tenant to provide "receipt" to document inspection.

#5. Not performing Pre-move-out inspections.

A. Timing of same.

- "reasonable time after notification of termination" LL shall notify tenant in writing of option to request initial inspection.

- No later than 2 weeks prior to end of tenancy.

- LL gives tenant opportunity to remedy any damage to avoid deductions from security dep.
- LL must give tenant written itemization of repairs or cleanings proposed

B. Necessity of same.

C. Documenting same.

#4. Not enforcing fines for late payments and other “minor” breaches.

A. Allowable fines.

- Make sure they are included in lease as additional rent.

- pass through of HOA fines if Tenant had notice.

- Late charges for late rent 2% or reasonable interest on money.
- Make sure date fines are due is specified

B. Effect of not enforcing same.

- tenant can claim “course of conduct” or waiver.

#3. Not responding to tenant complaints.

A. Habitability issues. CC 1941.1

- leaks from roof or walls, floors, windows, doors.

- plumbing and gas problems

- hot and cold running water
- appropriate sewage disposal system
- heat
- Electrical lighting
- Clean, sanitary, and free from accumulation of debris, filth, rubbish, garbage, rodents, and vermin.
- Floors, stairways and railings in good repair.

B. Nuisance issues.

- noise
- smell
- gang violence

C. Health and safety issues

#2. Not communicating with tenants.

1. Communication avoids many problems.
2. Make personal contact.
3. Don't get too friendly!

#1. Number One Mistake Landlords Make: Failing to promptly start eviction process.

***** Don't be "nice".

A. This is your "business" –

- the grocery store wouldn't let the tenants fail to pay, and neither should you. Usually tenants are making choices about how to spend their money. You need to ensure they pay you before other "discretionary spending."

B. Eviction takes weeks, so you need to start ASAP. -
Obtaining possession is KEY !!!

C. Approximate cost of eviction/unlawful detainer. \$2,500.

- can be done by lay person, if you know what you're doing.