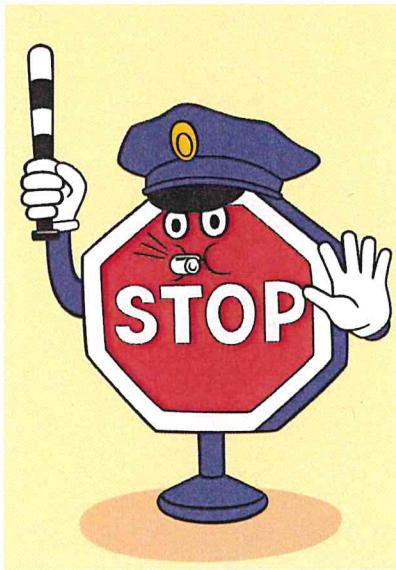


LEGAL SERVICES *of* NORTHERN CALIFORNIA

Unlawful Landlord Conduct



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LEGAL DISCLAIMER: This packet is intended to provide accurate and general information regarding your legal rights pertaining to your tenancy. Because laws and procedures are subject to frequent change and differing interpretations, Legal Services of Northern California cannot guarantee the information in this packet is current nor be responsible for any use to which it is put. This is not legal advice. Do not rely on this information without consulting an attorney or appropriate agency about your rights in your particular situation.

Unlawful Landlord Conduct

Lock Out

Code of Civil Procedure §§1159-1160

Code of Civil Procedure § 1159 Forcible Entry. Every person is guilty of a forcible entry who either:

1. By breaking open doors, windows, or other parts of a house, or by any kind of violence or circumstance of terror enters upon or into any real property; or,
2. Who, after entering peaceably upon real property, turns out by force, threats, or menacing conduct, the party in possession.

The "party in possession" means any person who hires real property and includes a boarder or lodger, except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.

Code of Civil Procedure §1160 Forcible Detainer. Every person is guilty of a forcible detainer who either:

1. By force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether the same was acquired peaceably or otherwise; or,
2. Who, in the night-time, or during the absence of the occupant of any lands, unlawfully enters upon real property, and who, after demand made for the surrender thereof, for the period of five days, refuses to surrender the same to such former occupant.

The occupant of real property, within the meaning of this subdivision, is one who, within five days preceding such unlawful entry, was in the peaceable and undisturbed possession of such lands.

Civil Code § 1940(b) Persons Who Hire

(b) The term "persons who hire" shall not include a person who maintains either of the following:

(1) Transient occupancy in a hotel, motel, residence club, or other facility when the transient occupancy is or would be subject to tax under Section 7280 of the Revenue and Taxation Code. The term "persons who hire" shall not include a person to whom this paragraph pertains if the person has not made valid payment for all room and other related charges owing as of the last day on which his or her occupancy is or would be

subject to tax under Section 7280 of the Revenue and Taxation Code.

(2) Occupancy at a hotel or motel where the innkeeper retains a right of access to and control of the dwelling unit and the hotel or motel provides or offers all of the following services to all of the residents:

- (A) Facilities for the safeguarding of personal property pursuant to Section 1860.
- (B) Central telephone service subject to tariffs covering the same filed with the California Public Utilities Commission.
- (C) Maid, mail, and room services.
- (D) Occupancy for periods of less than seven days.
- (E) Food service provided by a food establishment, as defined in Section 113780 of the Health and Safety Code, located on or adjacent to the premises of the hotel or motel and owned or operated by the innkeeper or owned or operated by a person or entity pursuant to a lease or similar relationship with the innkeeper or person or entity affiliated with the innkeeper.

Penal Code § 418. Force and Violence on Entering and Detaining on Another's Land and Possession Every person using or procuring, encouraging or assisting another to use, any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and in the manner allowed by law, is guilty of a misdemeanor.

Willful Interruption of Utilities

Civil Code § 789.3 Landlord Liability for Willful Interruption of Utilities

(a) A landlord shall not with intent to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as his residence willfully cause, directly or indirectly, the interruption or termination of any utility service furnished the tenant, including, but not limited to, water, heat, light, electricity, gas, telephone, elevator, or refrigeration, whether or not the utility service is under the control of the landlord.

(b) In addition, a landlord shall not, with intent to terminate the occupancy under any lease or other tenancy or estate at will, however created, of property used by a tenant as his or her residence, willfully:

(1) Prevent the tenant from gaining reasonable access to the property by changing the locks or using a bootlock or by any other similar method or device;

(2) Remove outside doors or windows; or

(3) Remove from the premises the tenant's personal property, the furnishings, or any other items without the prior written consent of the tenant, except when done pursuant to the procedure set forth in Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of Division 3.

Nothing in this subdivision shall be construed to prevent the lawful eviction of a tenant by appropriate legal authorities, nor shall anything in this subdivision apply to occupancies defined by subdivision (b) of Section 1940.

(c) Any landlord who violates this section shall be liable to the tenant in a civil action for all of the following:

(1) Actual damages of the tenant.

(2) An amount not to exceed one hundred dollars (\$100) for each day or part thereof the landlord remains in violation of this section. In determining the amount of such award, the court shall consider proof of such matters as justice may require; however, in no event shall less than two hundred fifty dollars (\$250) be awarded for each separate cause of action. Subsequent or repeated violations, which are not committed contemporaneously with the initial violation, shall be treated as separate causes of action and shall be subject to a separate award of damages.

(d) In any action under subdivision (c) the court shall award reasonable attorney's fees to the prevailing party. In any such action the tenant may seek appropriate injunctive relief to prevent continuing or further violation of the provisions of this section during the pendency of the action. The remedy provided by this section is not exclusive and shall not preclude the tenant from pursuing any other remedy which the tenant may have under any other provision of law.

Unlawful Actions to Influence Tenants to Vacate 2017 Legislation

Civil Code § 1940.2. Unlawful Actions

(a) It is unlawful for a landlord to do any of the following for the purpose of influencing a tenant to vacate a dwelling:

(1) Engage in conduct that violates subdivision (a) of Section 484 of the Penal Code.

(2) Engage in conduct that violates Section 518 of the Penal Code.

(3) Use, or threaten to use, force, willful threats, or menacing conduct constituting a course of conduct that interferes with the tenant's quiet enjoyment of the premises in violation of Section 1927 that would create an apprehension of harm in a reasonable person.

Nothing in this paragraph requires a tenant to be actually or constructively evicted in order to obtain relief.

(4) Commit a significant and intentional violation of Section 1954.

(5) *Threaten to disclose information regarding or relating to the immigration or citizenship status of a tenant, occupant, or other person known to the landlord to be associated with a tenant or occupant. This paragraph does not require a tenant to be actually or constructively evicted in order to obtain relief.*

(b) A tenant who prevails in a civil action, including an action in small claims court, to enforce his or her rights under this section is entitled to a civil penalty in an amount not to exceed two thousand dollars (\$2,000) for each violation.

(c) An oral or written warning notice, given in good faith, regarding conduct by a tenant, occupant, or guest that violates, may violate, or violated the applicable rental agreement, rules, regulations, lease, or laws, is not a violation of this section. An oral or written explanation of the rental agreement, rules, regulations, lease, or laws given in the normal course of business is not a violation of this section.

(d) *Nothing in this section shall. This section does not enlarge or diminish a landlord's right to terminate a tenancy*

pursuant to existing state or local law; nor shall does this section enlarge or diminish any ability of local government to regulate or enforce a prohibition against a landlord's harassment of a tenant.

AB-291 Housing: immigration.(2017-2018)

Penal Code § 484(a) Theft

Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his or her wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

Penal Code § 518 Extortion

Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

Civil Code § 1927 Warranty of Quiet Possession

An agreement to let upon hire binds the hirer to secure to the hirer the quiet possession of the thing hired during the term of the hiring, against all persons lawfully claiming the same.

EXAMPLE

Date _____, 20____

Landlord's Name

Landlord's Address

Dear Landlord's Name:

I live at Your Address

On Date, 20____, you or your agent Description of
what happened

This Letter is to notify you that your actions are in violation of California law. California Penal Code Section 418 makes it a criminal misdemeanor to use "any force or violence in entering upon or detaining any lands or possessions of another." For more than fifty years, California courts have consistently held that "force" is used whenever a person enters the land or dwelling in possession of another without his/her consent or whenever the property of a tenant is detained without his/her consent. Without a court order, you have **NO RIGHT** to change the locks on a tenant's door; block a tenant's access to his/her dwelling; seize tenants property; remove the doors, windows, or any portion of the tenants dwelling; or shut off utilities in a tenant's dwelling. Any such action on your part amounts to criminal conduct.

Because you have not complied with the proper court proceedings required before you can evict a tenant, you are also civilly liable under California Civil Code § 789.3. You may be held liable for actual damages which you have caused, as well as statutory damages of up to \$100.00 for each day that I suffer damages, with a minimum amount of \$250.00. As of today, you owe me \$ ①. I also had to spend \$ ② on ③ because of your actions. If you do not pay these damages, I will bring a court action against you.

I hope this information will convince you to stop violating the law.

Sincerely,

Print Your Name
Your Address

Sign Your Name

① \$100.00 x Number of days
since unlawful conduct.

② Expenses you incurred as a result
of Landlord's unlawful conduct.

③ What the expense was.

_____, 20_____

Dear _____:

I live at _____

On _____, 20_____, you or your agent _____

This Letter is to notify you that your actions are in violation of California law. California Penal Code Section 418 makes it a criminal misdemeanor to use "any force or violence in entering upon or detaining any lands or possessions of another." For more than fifty years, California courts have consistently held that "force" is used whenever a person enters the land or dwelling in possession of another without his/her consent or whenever the property of a tenant is detained without his/her consent. Without a court order, you have **NO RIGHT** to change the locks on a tenant's door; block a tenant's access to his/her dwelling; seize tenants property; remove the doors, windows, or any portion of the tenants dwelling; or shut off utilities in a tenant's dwelling. Any such action on your part amounts to criminal conduct.

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I hope this information will convince you to stop violating the law.

Sincerely,

