**Landlord/Tenant Law: California**

California Civil Code §§ 1925-1954, 1961-1962.7, 1995.010-1997.270

*113 Civil Code Section 1940.2(a)(4)*

*114 Civil Code Section 1940.2(b)*

The typical problem is the resident manager who has a key to your apartment, and snoops around while you're away at work, going through your things. Try complaining about it, and you get either an indignant denial or a threat of eviction, not an apology. They are wrong, but act like you're way out of line for wanting privacy.

The difference between the sidewalk and your apartment is that you have the right to exclusive possession of your apartment against all the world, even the landlord. When the landlord rents your apartment to you, he is selling you the right to exclusive possession; that is what renting is. If the landlord would prefer to have that right, he doesn't rent it; once he does, he can't come into your apartment without your permission, or under very narrow legal limits without your permission. Otherwise, it's trespassing, breach of contract, invasion of privacy, breach of quiet enjoyment, and disorderly conduct.

**Right of Entry**

In general, with tenant consent, a landlord has a right of entry to inspect the premises; make repairs; supply necessary or agreed services; or show the property to potential tenants, purchasers or contractors. Entry is limited to reasonable times, and two days' notice of intent to enter is required. A landlord may enter the premises without the tenant's consent if an emergency or abandonment occurs, or if the landlord obtains a court order. A landlord may not abuse his or her right of access to the premises to harass a tenant.

***Retaliatory evictions are illegal***. A landlord may not terminate a tenancy or increase rent or change other terms of the rental agreement to retaliate against a tenant who asserts his or her rights under the Landlord-Tenant Act or reports violations of housing codes or ordinances.

**What are the landlord's options if a tenant refuses to allow entry even when a landlord has given adequate notice and has a valid reason to enter?**

A landlord should not force entry except when there is a true emergency, such as a fire or gas leak. However, if a tenant is repeatedly unreasonable in denying the landlord access, the landlord can legally enter anyway, during reasonable times, provided he does so in a peaceful manner. However, in no case should the landlord enter if the tenant is present and saying "stay out."

If a landlord has a serious conflict over access with an otherwise satisfactory tenant, a sensible first step is to meet with the tenant to see if the problem can be resolved. Often, neighborhood mediation programs will, for a low cost, help work out an agreement. If these attempts at compromise don't work, a landlord can usually evict the tenant for violating the lease or rental agreement, assuming it contains an appropriate right-of-entry provision.

**What should a tenant do if a landlord repeatedly violates her privacy rights by entering the rental unit with no good reason and/or advance notice?**

As a first step, the tenant will usually first meet with the landlord to ask for assurance that this conduct won't be repeated. If this doesn't work, the tenant may be able to simply ***move out, claiming that the landlord's repeated violation of her privacy amounts to a "constructive eviction."*** Finally, if the landlord's conduct seriously interferes with the tenant's peace of mind, the tenant may have grounds for a successful lawsuit, asking for damages. Typically, a tenant will file suit in small claims court without a lawyer. For details on small claims court procedures and the maximum amount for which someone can sue, see Everybody's Guide to Small Claims Court (National or California Edition), by Ralph Warner (Nolo Press).

**Civil Code 1954**

Under **Civil Code 1954** [see below], the landlord may enter your unit *without your permission* ***ONLY:***  (1) in an emergency, like a fire or broken pipe, or  (2) upon **reasonable advance notice**, and then ONLY:          (A)  **to inspect, repair, or show the apartment**,           (B) during **normal business hours** [presumably Mon.-Fri. 8AM-6PM]         (C) 24 hours is presumed to be sufficient notice          (D) You do *not* have to be home when they come, but the landlord is liable for anything stolen or broken.          (E) The notice must identify a date and reasonable time range [like an hour] within which the entry will occur          (F ) The notice MUST be written [not oral or e-mail], except if a WRITTEN notice that realtors will be showing the property is given, for the next 120 days only an oral telephonic 24 hour notice is required [business hour limit still applies]          (G) The right of entry can't be "abused", so that an open house, lock box, extended repair, daily entry, or excessive range of entry time are probably all "abuses" which you have the legal right to prevent.

    The nature of the reasonableness of the notice seems to be to give you time to pick up the place, secure pets, arrange to be there, or otherwise make ready for the visit. The law is not clear, here, and the above is the best interpretation of what the law probably is.

**Practical Solutions**

    These entries can be restricted by practical means, since there is no legal authority (pro or con) to do so:

(1) Write a letter to the owner, carbon copy to the local police, about the manager's burglary.

(2) ***Change the locks***, or add chain lock to the door so that the manager's entry is restricted. You should plan on moving, if the owner does not restrict the manager's entry, but at least your privacy will be protected meanwhile.

3) Sue the manager and landlord for their trespass and invasion of privacy, in small claims court [maximum is $7,500]. Maybe they'll think twice next time. Each time, it's a different lawsuit. Each person so affected can separately sue.

    The law now requires a landlord to provide dead bolt locks on the doors and adequate locks on the windows of a residential rental unit. Civil Code Section 1941.3. Failure to do so violates the "warranty of habitability", permitting the tenant to move out, repair and deduct, or withhold rent as remedies. You can use that law to put them on, deduct the cost from your rent [See Repairs], and have the additional barrier to their illegal entry.

**CIV §1954. Entry by Landlord**

(a) A landlord may enter the dwelling unit only in the following cases:

(1) In case of emergency.

(2) To make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workers, or contractors or to make an inspection pursuant to subdivision (f) of Section 1950.5.

(3) When the tenant has abandoned or surrendered the premises.

(4) Pursuant to court order.

(b) Except in cases of emergency or when the tenant has abandoned or surrendered the premises, entry may not be made during other than normal business hours unless the tenant consents to an entry during other than normal business hours at the time of entry.

(c) The landlord may not abuse the right of access or use it to harass the tenant.

(d) (1) Except as provided in subdivision

(e), or as provided in paragraph (2) or (3), the landlord shall give the tenant reasonable notice in writing of his or her intent to enter and enter only during normal business hours. The notice shall include the date, approximate time, and purpose of the entry. The notice may be personally delivered to the tenant, left with someone of a suitable age and discretion at the premises, or, left on, near, or under the usual entry door of the premises in a manner in which a reasonable person would discover the notice. Twenty-four hours shall be presumed to be reasonable notice in absence of evidence to the contrary. The notice may be mailed to the tenant. Mailing of the notice at least six days prior to an intended entry is presumed reasonable notice in the absence of evidence to the contrary.

(2) If the purpose of the entry is to exhibit the dwelling unit to prospective or actual purchasers, the notice may be given orally, in person or by telephone, if the landlord or his or her agent has notified the tenant in writing within 120 days of the oral notice that the property is for sale and that the landlord or agent may contact the tenant orally for the purpose described above. Twenty-four hours is presumed reasonable notice in the absence of evidence to the contrary. The notice shall include the date, approximate time, and purpose of the entry. At the time of entry, the landlord or agent shall leave written evidence of the entry inside the unit.

(3) The tenant and the landlord may agree orally to an entry to make agreed repairs or supply agreed services. The agreement shall include the date and approximate time of the entry, which shall be within one week of the agreement. In this case, the landlord is not required to provide the tenant a written notice.

(e) No notice of entry is required under this section:

(1) To respond to an emergency.

(2) If the tenant is present and consents to the entry at the time of entry.

(3) After the tenant has abandoned or surrendered the unit.

The landlord cannot abuse the right of access allowed by these rules, or use this right of access to harass (repeatedly disturb) the tenant. Also, the law prohibits a landlord from significantly and intentionally violating these access rules to attempt to influence the tenant to move from the rental unit. *113*

If your landlord violates these access rules, talk to the landlord about your concerns. If that is not successful in stopping the landlord's misconduct, send the landlord a formal letter asking the landlord to strictly observe the access rules stated above. If the landlord continues to violate these rules, you can talk to an attorney or a legal aid organization, or file suit in small claims court to recover damages that you have suffered due to the landlord's misconduct. If the landlord's violation of these rules was significant and intentional, and the landlord's purpose was to influence you to move from the rental unit, you can sue the landlord in small claims court for a civil penalty of up to $2,000 for each violation. *114*