

14-05 - Disputes Involving Hotel Occupants

Los Angeles County Sheriff's Department

NEWSLETTER

Field Operations Support Services, (323) 890-5411



DISPUTES INVOLVING HOTEL OCCUPANTS

It is a warm summer afternoon when you are dispatched to Red Rock Hotel on a “defrauding an innkeeper” call. When you arrive at the location you contact the manager in the registration office. He tells you that the person staying in room number 218 has not paid their bill for the past four months and the manager wants you to remove them from the property. Do you know the difference between a tenant and guest? What would you do?

A tenant is a person who rents or leases a rental unit from a landlord. The tenant obtains the right to the exclusive use and possession of the rental unit during the lease or rental period, as stated in a written contract. Tenant rights and responsibilities apply only to people whom the law defines as tenants, known as “persons who hire.” Generally, under California law, lodgers and residents of residential hotels and motels have the same rights as tenants.

A guest doesn't have the same rights as a tenant. For example, the proprietor of a hotel can lock out a guest who doesn't pay his or her room charges on time, while a landlord would have to begin formal eviction proceedings to evict a nonpaying tenant. A guest is someone who is staying in a hotel or motel where any of the following situations exist:

- They are staying in a hotel, motel, residence club, or other lodging facility for 30 days or less, and their occupancy is subject to the state's hotel occupancy tax.
- They are staying in a hotel, motel, residence club, or other lodging facility for more than 30 days, but they have not paid for all room and related charges owed by the 30th day, and their occupancy is subject to the state's hotel occupancy tax.
- They are staying in a hotel or motel to which the manager has a right of access and control, and ALL of the following is true:
 - The hotel or motel allows occupancy for periods of fewer than seven days.
 - All of the following services are provided for all guests:
 - a fireproof safe for guest's use
 - a central telephone service
 - maid, mail, and room service
 - food service provided by a food establishment that is on or next to the hotel grounds and that

is operated in conjunction with the hotel.

A person has the legal rights of a tenant if they are living in a residential hotel, which is their primary residence. A residential hotel means any building which contains six or more guest rooms or efficiency units which are designed, used, rented or occupied for sleeping purposes by a person, and which is the primary residence of that person.

In residential hotels, a locking mail receptacle must be provided for each residential unit.

It is unlawful for the proprietor of a residential hotel to require an occupant to move or to check out and re-register before that occupant has lived there for 30 days and therefore not gain the legal rights of a tenant (Civil Code section 1940.1).

If you determine that the parties are landlord and tenant, advise the landlord that they must seek a court order and/or eviction through the court system (refer to FOSS Newsletter 06-04 *Civil Disputes, March 15, 2006*).

If it is determined that the parties are manager and guest, ascertain if a violation of sections 537(a) P.C. or 602(s) P.C. has been committed. If such a violation has been committed, the manager has the option of initiating a Private Person's Arrest. In that case, all Department policies and procedures related to Private Person Arrests should be followed. You should not make a felony arrest based on a claim of damages greater than \$950, because the amount of damages is a matter to be proven by the victim in court. An unsubstantiated claim of damages made at the scene may be insufficient probable cause for a felony arrest.

BOTTOM LINE: If a hotel tenant/guest resided at the location for more than 30 days, or if the location is a "residential hotel," you're dealing with a civil landlord/tenant dispute. If the tenant/guest stayed less than 30 days and refuses to leave, it's a 602(s) P.C. for trespassing. The financial aspect of the dispute is a court matter in either case.

Questions regarding the contents of this newsletter may be directed to Field Operations Support Services.

References

California Department of Consumer Affairs. (2012). *Who Is A "Landlord" And Who Is A "Tenant"*.
<http://www.dca.ca.gov/publications/landlordbook/whois>

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Civil Code Section 1940(a).

Civil Code Sections 1940.1, 1940.1(a).

Field Operations Support Services. Newsletter 06-04 *Civil Disputes*. (March 15, 2006).
http://intranet/intranet/sites/Rmb/FOSS/newsletters/2006/nl_06-04_Civil_Disputes.pdf

Health and Safety Code Sections 17958.3; Civil Code Section 1944.1(i); California Practice Guide, Landlord-Tenant, Paragraph 3:21(a) (Rutter Group 2011).

Health and Safety Code Section 50519(b)(1). See California Practice Guide, Landlord-Tenant, Paragraphs 2:39, 2:40.1, 7:6.2 (Rutter Group 2011).
