

The most basic thing a tenant should know is that California law clearly states that if a landlord wishes to evict a tenant, she must first go to court, giving the tenant prior notice of the court proceedings. She cannot legally take the law into her own hands by locking the tenant out, taking the tenant's belongings, removing doors and windows, cutting off the utilities, or harassing the tenant in any other way.

### **Is it Illegal for my Landlord to Cut Off my Utilities?**

Any landlord who causes any utility service (including water, heat, light, electricity, gas, telephone, elevator, or refrigeration) to be cut off with the intent to terminate a tenant's occupancy is liable to the tenant for certain damages.<sup>1</sup> This law applies whether the utilities are paid for by the landlord or the tenant, and whether the landlord cuts off the utilities directly or indirectly- for example, not paying the utility bill.

The tenant may sue the landlord and recover the following amounts:

- Actual (out of pocket) losses, including such things as meat spoiling in the refrigerator after the electricity is turned off or motel bills if the tenant has to find a temporary place to live because the utilities had been turned off.
- Punitive damages of up to \$100 for each day or part thereof that the utility was turned off (but not less than \$250 in punitive damages for each separate violation)
- A reasonable attorney's fee
- A court order compelling the landlord to turn on the utilities.

You can bring your suit in small claims court (for up to \$5,000) or retain a lawyer to sue for you in Superior Court.

Tenants can also sue for mental anguish if the landlord's acts were especially outrageous. In 1988, a jury awarded 23 tenants of San

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<sup>1</sup> Cal. Civ. Code § 789.3

Francisco residential hotel \$1.48 million from their landlord. The landlord had cut off the water, entered the tenants' rooms without notice and threatened the tenants, most of whom were elderly or disabled.<sup>2</sup>

### **Is it illegal for my Landlord to Change my Locks?**

If the landlord locks you out, removes outside doors or windows, or removes your personal property from your home with the intention of terminating your tenancy, he is in violation of state law.<sup>3</sup> The damages are the same as set out above for utility cut offs. You can collect damages in small claims court, but if you want quick action to get back into your home, see a lawyer, because the statute allows you to collect attorney's fees. The lawyer might also sue the landlord for "forcible entry and detainer."<sup>4</sup>

You might also call the police or district attorney, because these acts are crimes (forcible entry, malicious mischief, and unauthorized entry). Even if the police will not arrest the landlord, they may persuade him to let you back inside. Ask the police to write a report on the incident; it might help you in a later lawsuit against the landlord.

Tenants who live in residential hotels (apartment buildings that are called hotels) are also protected against lock-outs.<sup>5</sup>

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<sup>2</sup> *Balmoral Hotel Tenants Association v. Lee* (1990) 266 Cal.App.3d686, 276 Cal.Rptr.640.

<sup>3</sup> Cal. Civ. Code § 789.3

<sup>4</sup> Cal. Civ. Code § 1159, *Jordan v. Tablot* (1961 55 Cal.2d 597.

<sup>5</sup> Cal. Civ. Code §1159; Cal. Civ. Code §1940