

Roommate Disputes

A summary of the legal rules affecting roommates.

When two or more people simultaneously sign the same rental agreement or lease -- or enter into the same oral rental agreement -- they are co-tenants and share the same legal rights and responsibilities. But there's a special twist. One co-tenant's negative behavior -- not paying the rent, for example -- can affect everyone's tenancy.

If One Roommate Doesn't Pay Rent

Co-tenants may decide to split the rent equally or unequally, depending on their own personal wishes. However, such agreements don't have any impact on the landlord. Each co-tenant is independently liable to the landlord for all of the rent. Landlords often remind co-tenants of this obligation by inserting into the lease a chunk of legalese which says that the tenants are "jointly and severally" liable for paying rent and adhering to terms of the agreement. If one tenant can't pay a share of the rent in a particular month, or simply moves out, the other tenant(s) is still responsible for paying all of the rent including the non-paying tenant's share.

Landlords often insist on receiving one rent check for the entire rent -- they don't want to be bothered with multiple checks from co-tenants, even if each co-tenant pays on time and the checks add up to the full rent. As long as you have been advised of this policy in the rental agreement or lease, it's legal for your landlord to impose it.

If One Roommate Violates the Lease or Rental Agreement

A landlord can, legally, hold all co-tenants responsible for the negative actions of just one, and terminate everyone's tenancy with the appropriate notice. For example, two co-tenants can be evicted if one of them seriously damages the property or otherwise violates the lease or rental agreement. In practice, however, landlords sometimes ignore the legal rule that all tenants are equally liable for lease violations, and don't penalize a blameless one. If the non-offending roommates pay the rent on time, do not damage the landlord's property and can differentiate themselves from the bad apple in the landlord's eyes, the landlord will probably want to keep them.

Agreements -- and Disagreements -- Among Roommates

Roommates make lots of informal agreements about splitting rent, occupying bedrooms and sharing chores. Your landlord isn't bound by these agreements, and has no power to enforce them. For all sorts of reasons, roommate arrangements regularly go awry. If you have shared an apartment or house, you know about roommates who play the stereo too loud, never wash a dish, always pay their share of the rent late, have too many overnight guests, leave their gym clothes on the kitchen table or otherwise drive you nuts. If the situation gets bad enough, you'll likely end up arguing with your roommates about who should leave.

Only Landlords Can Evict Tenants

As a general rule, you can't terminate your roommate's tenancy by filing an eviction action.

The exception involves rentals governed by the few rent control statutes, such as the one in San Francisco, that allow a landlord to designate a "master tenant" -- usually a long-term tenant who was there first -- to perform many of the functions of a landlord. Master tenants have the right to choose -- as well as to evict -- tenants. If your municipality is subject to rent control, find out whether the scheme includes a provision for a master tenant.

The more you can anticipate possible problems from the start, the better prepared you'll be to handle disputes that do arise. First, try to choose compatible housemates. Before you move in, sit down with your roommates and create your own agreement covering major issues, such as:

1. **Rent.** What is everyone's share? Who will write the rent check if the landlord will accept only one check?
2. **Space.** Who will occupy which bedrooms?
3. **Household chores.** Who's responsible for cleaning, and on what schedule?
4. **Food sharing.** Will you be sharing food, shopping and cooking responsibilities? How will you split the costs and work?
5. **Noise.** When should stereos be turned off or down low?

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6. **Overnight guests.** Is it okay for boyfriends/girlfriends to stay over every night?
7. **Moving out.** If one of you decides to move, how much notice must be given? Must the departing tenant find an acceptable substitute?

It's best to put your understandings in writing. (See the sample roommate agreement, below.) Oral agreements are too easily forgotten or misinterpreted after the fact.

Be as specific as possible, especially on issues that are important to you. If dirty dishes in the sink drive you up the wall, write it down. If occasional guests are no problem, but you can't stand the thought of your roommate's (non-rent-paying) boyfriend hogging the bathroom every morning, make sure your agreement is clear on guests.

Most of this kind of agreement isn't legally binding - that is, a judge won't order a tenant to clean the bathroom. Judges will, however, enforce financial agreements, such as how rent is to be shared.

By far the greatest value of committing your understanding of co-tenant rights and responsibilities to writing is that it forces you and your housemates to take your co-tenancy responsibilities seriously. To underline this commitment, it's always wise to include a clause requiring co-tenants to participate in mediation before one of you breaks the agreement by moving out or running off to court. Our sample roommate agreement, below, includes such a clause.

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Roommate Negotiations

When unrelated people live together as roommates, they have expectations about the rights and responsibilities of themselves and each other. Misunderstandings and conflicts can arise about these rights and responsibilities if they are not clearly understood in advance. For this reason, we strongly recommend that these issues be clearly spelled out in a written agreement at the beginning

of the shared tenancy, in form similar to sample agreements enclosed.

If however, this was not done, or if it was done and conflict still arises, we are including a referral phone number for a mediation agency.

In the following pages you will find form agreements that you can just simply fill in. These are only sample agreements, so the terms accorded in the agreements may not apply if you live in a city with a rent control ordinance, such as Berkeley or Oakland. Always check with your local rent-board to verify that your agreement is appropriate. As we state in our cover letter, we recommend that you write your own letter/agreement in your own words with more detail, but we also provide you with this form agreements in case you feel you need them.

- Sample agreement between roommates (pps. 2 - 5) is for persons who are involved in a relationship with each other and either applied for the apartment together or one of them moved in with the other based on their relationship, and both names are on the rental contract or lease.
- Sample agreement between new tenant and old tenant (pps. 5 and 6) is for an individual moving into an apartment where his/her name is not on the lease, and states clearly what the terms of his/her tenancy will be.
- Sample letter of when one tenant moves out and the other remains (rental agreement; pps. 7 and 8) is for when the primary tenant plans on moving and the roommate wants to keep the apartment and has been paying his/her portion of the rent directly to the landlord/manager, but their name isn't on the rental contract.
- Sample letter when one tenant moves out and the other remains (lease; pps. 9 and 10) is for when only one name is on the lease and the lease holder is moving out and the roommate wants to keep the unit, but, his/her name isn't on the lease. The landlord is aware that the lease holder has a roommate.

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SAMPLE AGREEMENT BETWEEN ROOMMATES

AGREEMENT

Alex Andrews, Brian Bates and Charles Chew are co-tenants at Apartment 2, 360 Capitol Avenue, Oakdale, Kentucky, under a year-long lease that expires on February 1, 200__. They have all signed a lease with the landlord, Reuben Shaw, and have each paid \$300 towards the security deposit of \$900. Alex, Brian and Charles all agree as follows:

1. **Rent.** The rent of \$900 per month will be shared equally, at \$300 per person. Alex will write a check for the total month's rent and take it to the manager's office on the first of each month (or the next day if the 1st falls on a holiday). Brian and Charles will pay their share to Alex on or before the due date.
2. **Bedrooms.** Alex and Brian will share the large bedroom with the adjacent deck; Charles will have the small bedroom.
3. **Food.** Each co-tenant is responsible for his own food purchases.
4. **Cleaning.** Charles will clean his own room; Alex and Brian will clean theirs weekly. The household chores for the rest of the apartment -- living room, dining room, kitchen and bathroom -- will rotate, with each co-tenant responsible for vacuuming, dusting, mopping and bathroom maintenance on a weekly basis. Each co-tenant will promptly clean up after himself in the kitchen. No one will leave dishes in the sink for more than 24 hours, and everyone will promptly clean up when asked.
5. **Utilities.** Everyone will pay an equal share of the electricity and gas bills. Alex will arrange for service and will pay the bill. Within three days of receiving the bill, Charles and Brian will each pay Alex one-third of the total.
6. **Phone.** Alex will arrange for phone service and will pay the monthly bill. Within three days of receiving the bill, Alex, Brian and Charles will identify their own long-distance charges and Brian and Charles will each pay Alex their long-distance totals, plus one-third of the fixed charges.
7. **Guests.** Because of the apartment's small size, each tenant agrees to have no more than one overnight guest at a time and to inform the others in advance, if possible. Each co-tenant agrees to no more than four guests overnight in a month.
8. **Exam Periods.** During mid-term and final exam periods, no co-tenant will have overnight guests or parties.
9. **Violations of the Agreement.** The co-tenants agree that repeated and serious violations of one or more of these understandings will be grounds for any two co-tenants to ask the other to leave. If a co-tenant is asked to leave, he will do so within two weeks, and will forfeit any outstanding pre-paid rent.
10. **Leaving Before the Lease Ends.** If a co-tenant wants to leave before the lease expires on February 1, 200_, he will give as much notice as possible (and not less than one month) and diligently try to find a replacement tenant who is acceptable to the remaining co-tenants and the landlord.
11. **Security Deposits.** The co-tenant who leaves early (voluntarily or involuntarily) will get his share of the security deposit returned, minus costs of rent, repairs, replacement and cleaning attributable to the departing tenant, when and if an acceptable co-tenant signs the lease and contributes his share to the security deposit. If an acceptable co-tenant cannot be found, the departing tenant will not receive any portion of his share of the security deposit until the tenancy of the remaining co-tenants is over and the security deposit is refunded (or not) by the landlord.
12. **Dispute Resolution.** If a dispute arises concerning this agreement or any aspect of the shared living situation, the co-tenants will ask the University Housing Office Mediation Service for assistance before they terminate the co-tenancy or initiate a lawsuit. This will involve all three tenants sitting down with a mediator in good faith to try to resolve the problems.

Alex Andrews _____
 Brian Bates _____
 Charles Chew _____

Date:
 Date:
 Date:

AGREEMENT

_____ and _____, upon renting an
Tenant 1 Tenant 2
apartment at _____, _____, _____, _____ agree as
Street City State Zip
follows:

1. _____ and _____ are each obligated to pay one-half of the rent and one-half of the utilities including the basic monthly telephone charge. Each person will keep track of and pay for his/her long distance calls. Rent shall be paid on the first of each month, utilities within ten days of the day the bill is received.
2. If either _____ or _____ wants to move out, the one moving will give the other person a 30-day notice and will pay his/her share of the rent for the entire 30 day period even if he/she moves out sooner. If both _____ and _____ wish to move, they will be jointly responsible for giving the landlord 30-days notice.
3. No third persons will be invited to stay in the apartment without the mutual agreement of both _____ and _____.
4. If both _____ and _____ want to keep the apartment but one or the other or both no longer wishes to live together, they will have a third party flip a coin to see who gets to stay. The loser will move out within 30 days and will pay all of his/her obligations for rent, utilities and for any damage to the apartment that he/she is responsible for.

Print Name _____ Print Name _____
Old Tenant New Tenant

Signature _____ Signature _____
Old Tenant New Tenant

Date: ___ / ___ / _____ Date: ___ / ___ / _____

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SAMPLE AGREEMENT BETWEEN NEW TENANT AND OLD TENANT

AGREEMENT

Helen Mattson and James Kennedy make the following agreement:

1. James will move into Helen's apartment and will give Helen one-half of the monthly rent (\$400) on the first of each month. Helen will continue paying the landlord under her lease and James will have no obligation under the lease.
2. James will pay one-half of the electric, gas, water, garbage, and monthly telephone service charges to Helen on the first of each month. Helen will pay the bills.
3. Should James wish to move out, he will give Helen as much written notice as possible and will be liable for one-half of the rent for two weeks from the time he gives Helen written notice. Should Helen wish James to move out, she will give him as much written notice as possible, in no case less than two weeks. In any case of serious dispute, it is understood that Helen has first choice to remain in the apartment and James must leave on her request.

Signature: _____
 Helen Mattson

Date:

Signature: _____
 James Kennedy

Date:

AGREEMENT

_____ and _____ make the following
Old Tenant New Tenant
agreement:

1. New Tenant will move into Old Tenant's apartment and will give Old Tenant one-half of the monthly rent (for the amount of) \$ _____. ____ on the ____ of each month. Old Tenant will continue paying the landlord under his/her lease and New Tenant will have no obligation under the lease.

2. New Tenant will pay one-half of the electric, gas, garbage, and monthly telephone service charges to Old Tenant on the ____ of each month; old tenant will pay the bills.

3. Should New Tenant wish to move out, he/she will give Old Tenant as much written notice as possible and will be liable for ____% of the rent for _____ from the time he/she gave Old Tenant written notice.

Should Old Tenant wish New Tenant or his/herself to move out, he/she will give him/her as much written notice as possible, in no case less than ____ days or ____ months. In any case of serious dispute, it is understood that Old Tenant has the first choice to remain in the apartment and New Tenant must leave upon his/her request.

Print Name _____ Print Name _____
Old Tenant New Tenant

Signature _____ Signature _____
Old Tenant New Tenant

Date: ____ / ____ / _____

Date: ____ / ____ / _____

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SAMPLE LETTER WHEN ONE TENANT MOVES OUT AND THE OTHER REMAINS (Rental Agreement)

1500 Redwood Street #4
Philo, CA. 99921
June 27, 2001

Smith Realty
10 Ocean Street
Elk, CA. 99921

Date

I live at the above address and regularly pay rent to your office. On July 31, 2001, I will be moving out. As you know, my friend Helen Mattson, also resides here. She wishes to remain and will continue to pay rent to your office on the first of each month.

We will be contacting you soon to arrange for the return of my security deposit of \$500, at which time Helen will give you a similar deposit. If you have any questions, or if there is anything we can do to make the transition easier for you, please let us know.

Sincerely yours:

James Kennedy

Name

Date

Address

City/State/Zip

Landlord/Manager Name

Address

City/State/Zip

I live at the above address and regularly pay rent to your office. On ___ / ___ / _____, I will be moving out. As you know, my friend _____, also resides here. She wishes to remain and will continue to pay rent to your office on the ___ of each month.

We will be contacting you soon to arrange for the return of my security deposit of \$ _____, ___ at which time _____ will give you a similar deposit. If you have any questions, or if there is anything we can do to make the transition easier for you, please let us know.

Sincerely yours

Signature

Name

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SAMPLE LETTER WHEN ONE TENANT MOVES OUT AND THE OTHER REMAINS (LEASE)

1500 Redwood Street #4
Philo, CA. 99921
August 21, 2001

Smith Realty
10 Ocean Street
Elk, CA. 99921

I live at the above address under the lease which expires on October 30, 2001. A change in my job makes it necessary that I leave the last day of February. As you know, for the last six months my friend, Helen Mattson, has been sharing this apartment. Helen wishes either to take over my lease or enter into a new one with you for the remainder of my lease term. She is employed, has a stable income, and will, of course, be a responsible tenant.

We will be contacting your office soon to work out the details of the transfer. If you have any concerns about this proposal, please give us a call.

Sincerely yours,

James Kennedy

Your Name

Date

Your Address

City/State/Zip

Landlord/Manager Name

Address

City/State/Zip

I live at the above address under the lease which expires ___ / ___ / _____. A change in my _____ makes it necessary that I leave on ___ / ___ / _____.

As you know, for the last ___ months my friend, _____, has been sharing this apartment. _____ wants either to take over my lease or enter into a new one with you for the remainder of my lease term. _____ is employed, has a stable income, and will, of course be a responsible tenant.

We will contact your office soon to work out the details of this transfer. If you have any concerns about this proposal, please give us a call.

Sincerely yours,

Signature

Name