

What happens when a tenant dies?

While it is not a pleasant question to consider, landlords should know their rights and obligations if a tenant passes away while in occupancy of their rental unit.

If the original term of the tenant's lease has expired and the tenancy is month-to-month, Civil Code Section 1934 provides that the tenancy terminates upon notice of the tenant's death. At least one court has determined that when a tenant dies, the tenancy fully terminates 30 days after the tenant's last payment of rent. (*Miller & Desatnik Management Co. v. Bullock* (1990) 221 Cal.App.3d Supp. 13, 18) For example, if the tenant paid rent on August 1, and passes away on August 15, the tenancy terminates on September 1.

If the lease is still in its original term, the tenancy continues through the remaining term of the lease and the tenant's estate becomes responsible for the monthly rent payment. Landlords may be willing to release the estate from the lease obligations if they are otherwise able to re-rent the unit.

Please be aware that if a tenant dies in the rental unit, that fact must be disclosed to potential tenants or purchasers of the building for a period of three years following the death. (Civil Code 1710.2)

After a tenant passes away, you may be contacted by a representative or family member of the tenant to remove the tenant's belongings from the rental unit. While we always advise landlords to try and work with the family of the deceased, you should be aware that allowing a person to stay in the rental unit for more than 30 days can give that person tenancy rights to the unit and cause a protracted legal battle to remove them. Never agree that anyone not on the lease can reside at the unit and make sure all communications are in writing.

If you have any questions about your particular situation, please call our office to speak with an attorney.