

7 Tips to Avoid a

Property Management Nightmare



Tip 1 – Security Deposit Disposition

Per the CO RE Commission, you have 45 days to return security deposit (SD), unless your lease explicitly states up to 60 days. But 45 days from when? The short answer: whenever you took back possession of the property... typically when you receive keys back, or were awarded possession by the court. We recommend a 60-day return period, to allow any work to be done on the property and to collect associated receipts for the SD Disposition.

Tip 2 – Realistic Security Deposit Withholding

If you withhold -anything- from SD, you must provide the tenant a “Disposition”, which itemizes all repairs that were done on a property. A couple of fine points: First... what if you do the work yourself, how do you account for expenses and time? Our advice: have a professional do the work and bill you. It removes subjectivity. Second, what can you actually withhold for? This brings up the subject of “normal wear and tear”, which strongly favors the tenant. Paint smudges, carpet wear and small nail holes are normally considered the owners responsibility. A judge would likely rule that paint and carpets more than 3 years old have deteriorated to the point that you can’t realistically withhold from the tenant. There are exceptions of course. What do you do if somebody smoked inside?

Tip 3 – You Blew It and Forgot to Provide a SD Disposition

Congratulations... you just received a “7-Day Demand for Deposit” from the tenant’s attorney. Not good. It typically means one of two things. 1) You mailed the SD disposition to the tenant but forgot to mail it certified. Chances are you have an opportunistic tenant who knows the system and is taking advantage of you. Or it could be 2), you actually forgot to mail it, or did not mail it in time. Regardless the scenario, the tenant can legally demand that full SD be returned within 7 days. The risk of not returning the SD is that they can sue you for treble damages, including their attorney fees. This is serious stuff.

As most Agents know, Property Management is not easy, and is fraught with risk and liability. Echo Summit solicits many calls every week from Agents asking for advice on situations.

In this paper, we re-cap the top 7.

You know the drill... this is not legal advice, and we suggest working closely with your attorneys, as we do, on all aspects of Property Management.

Tip 4 – Documenting Move-in Condition

Video is the rule. Kind of. A judge will weigh both video and photo evidence, but video obviously shows more detail. Whether photo or video, the court will likely ask the person who actually took the footage/photo to appear to swear they took it on the given date.

Tip 5 – Warranty of Habitability

Thanks to SMDRA and CREC update courses, we are all now experts on WH. But in case you were in the back of the room filling your coffee cup... WH essentially gives the renter rights to stop paying rent, and ultimately terminate their lease for “materially dangerous or hazardous” property conditions. WH requires that the tenant submit, IN WRITING, an adverse problem exists in the property, then give you “reasonable” amount of time to address it. If it is not addressed (in whose opinion?), they may submit a SECOND request, this time a “notice of intent to terminate” if the problem is not remedied in 5 business days. In our professional opinion, if a tenant is playing the WH card and it is not obvious what to do, consult your attorney immediately. And if you are bordering on slum-lording... stop it. It is not fair to the tenant, and the courts strongly favor the tenant.

Tip 6 – Truth in Advertizing Could Ruin Your Life

3 beds or 4? It is critical to be accurate and factual in Property Management. Let’s say you advertize a property as 4 bedrooms, and one of the bedrooms is a non-conforming basement bedroom. The county gets tipped off (this DOES happen), does an inspection, and makes one of the tenants move out. Now you have a big problem, since as a RE professional you advertized this as a 4 bed. In a bad case, you may have to pay for a move. In a slightly worse case, you will also be subsidizing the owner some lost rent. In a disaster scenario, a fire breaks out in the 4th bedroom and kills someone. Now the rest of your life is impacted. Who thought Property Management could be so much fun?

Tip 7 – Pest Control: Bedbugs, Rats and things that go Bump in the Night

We recently interviewed for a PM position at Echo Summit. 6 applicants were asked “a resident moved in one month ago when the property was just cleaned and de-infested... now they report there are bedbugs or rats... what do you do, and who is responsible?” Only one applicant got it close to right. Your attorney can more completely guide you through this, but in general this issue comes back to habitability. How do you prove who brought the pests? In our opinion, the best course is to “fix first, and ask later”. If somebody reports bedbugs... send in the exterminator for those poor folks. The owner will get the bill, and if you want, you can collect proof of who brought the pests later. It is better to show sympathy and action initially. If you manage many properties, it is good to have a Pest Control Addendum, that most competent RE attorneys have at their disposal. Amongst other things, this addendum gets the tenants agreement to cooperate with you in the event extermination is required.