



QUESTIONS

for the Self Storage Legal Network

Each month SSLN partners Carlos Kaslow and Scott Zucker will select a question from a SSLN subscriber on an important self storage legal issue and provide their best advice on dealing with the problem.

Question: *We have two or three tenants who are living in their storage spaces. Two arrive every morning and stay in their space until just before closing time. The other tenant arrives late and then does not leave until the next morning. We have also received complaints from other tenants about these customers acting oddly. Our rental agreement states that the space cannot be used for residential purposes. We have spoken to each of these customers and told them they can't live in their storage space and that it is solely for the storage of their goods. However, we think that they are still sleeping in their spaces. They are very good about paying rent but we think it would be better if they were not tenants here any longer. What are our options?*

Answer: A self storage facility is not a residence and self storage customers cannot use a space for residential purposes. Every state lien law specifically prohibits a self storage space being used for residential purposes. A self storage facility is not designed to be used for habitation and a person using a storage space for this purpose is violating numerous state and local laws governing the minimum standards for a residential premises. It is also dangerous for both the person residing in the space and possibly other tenants. There were recent news report about a facility fire in Texas caused by a person living in a self storage space.

You do not have to tolerate a tenant using a storage space for residential purposes. This would include someone sleeping in a space at night when the facility is closed or during business hours. In fact, if you are aware of this prohibited use, but allow it anyway, you could incur liability if that tenant's conduct results in injury or damage to other tenants or their property. So in a situation like this you should take action to stop the conduct.

You were absolutely correct to talk with these customers and make sure that they knew that they cannot sleep or

loiter in the storage spaces. Unfortunately this did not seem to work. If they refuse to respond to your warnings, you can terminate their tenancy of the rented space. A month-to-month tenancy which is the basis of all self storage rentals can be terminated on thirty days advanced written notice. It can be terminated in a shorter time if provided for in the rental agreement. The notice can be delivered to the tenant either in person or by mail. If mailed, use certified mail return receipt requested so that you can establish the date it was received. Typically, since the tenant can be found on the premises, personally delivering the notice to the customer is probably your best option. The tenant must vacate by the date specified in the notice. If the tenant does not vacate, you will need to file an eviction suit. Such suit can be handled without an attorney in some jurisdictions and courts. In others, an attorney must be retained.

If you conclude termination is your only option you can also impose some rules of conduct on these tenants pending the eviction from the unit. For example, you could limit the times that the tenant may access their space to office hours only (so a manager is present) and you can limit the amount of time the tenant can spend in the space. A self storage space is for the storage of goods and does not give the tenant the right to simply loiter at the facility for several hours. In most cases tenants will leave when giving the termination notice and those who don't will vacate when an eviction complaint is served. However, there will be instances where you have to follow through on the court action to get the tenant to vacate the space. Keep in mind that you cannot use the lien remedy when you want to a customer to leave the space. The lien law is used to address the non-payment of the rent and the laws give the tenant the right to stop the sale by paying the amount due. When a tenant is using a space for a crash pad, your goal is to end the landlord tenant relationship, it's not about collecting the rent. ❖