Quiet Enjoyment

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November 2017

Every California lease (both residential and commercial) includes an implied covenant of quiet enjoyment. California Code §1927. This covenant protects the tenant from any act or omission by the landlord (or a person claiming through the landlord) that interferes with the tenant's use and enjoyment of the property.

Many commercial leases also contain an express covenant of quiet enjoyment.

The right of quiet enjoyment can be waived by commercial tenants. It is unclear whether it can be waived by residential tenants. Residential leases contain warranties of habitability that cannot be waived, and some acts or omissions that are a breach of quiet enjoyment may also be breaches of the warranty of habitability. Commercial tenants are not protected by a warranty of habitability.

Disputes regarding the quiet enjoyment may arise when a neighboring tenant is loud and disruptive. In residential leases, apartment dwellers may live in close quarters. Perhaps one neighbor plays loud music, while another has a barking dog.

What happens when a landlord or neighboring tenant substantially interferes with the tenant's right to use and enjoy the premises? This may constitute a breach of the lease and does not need to amount to a constructive eviction. If the acts (or omission) of the landlord or neighboring tenant force a tenant to move out, then the acts may support a claim for breach of quiet enjoyment.

In order for a tenant to establish a breach of the covenant of quiet enjoyment resulting from conduct in connection with a rental agreement, the landlord's act or omission must substantially interfere with a tenant's right to use and enjoy a material part of the premises for the purposes contemplated by the tenancy. On the other hand, "minor inconveniences and annoyances are not actionable."

The act or omission creating the breach of warranty of quiet enjoyment must be by the landlord, the landlord's agent, someone claiming under the landlord (e.g. another tenant in the same complex), or by a third person under the landlord’s control. Landlords are not responsible for nuisance activities:

- on neighboring premises not owned or controlled by the landlord; or
- of which they are unaware.

If the disruption of question enjoyment was so extensive that it was determined to be a constructive eviction, the residential tenant could argue for a rent reduction. For commercial leases, the covenant to pay rent is independent, which means that even if there is a disruption, the tenant must still timely pay the rent in full.
Rules and regulations can help control tenant behavior, and therefore avoid quiet enjoyment claims. When a dispute arises, landlords can enforce rules by serving a Notice to Perform Covenant or Quit to the disrupting tenant. Landlords may also want to document their efforts to enforce the rules and protect the quiet enjoyment of other residents by keeping a copy of the notices or making a log.

In a commercial tenancy, breach of quiet enjoyment claims and disputes can arise when two incongruous business are next to each other. For example, a dance studio or gym with loud music, or business that generates odors (a nail salon or barbeque restaurant) is placed next to a quiet office space. To avoid claims of breach of quiet enjoyment, before signing a lease, landlords should carefully consider a prospective tenant’s proposed use and how that may impact surrounding tenants.

In both residential and commercial tenancies, the best way to avoid potential disputes is by taking preventative measures before leasing and having an established policy or plan for handling tenant complaints.