



Monthly Newsletter

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Landlords of residential property must provide a habitable property.

For a residential property, landlords must provide a habitable property and the implied warranty of habitability can never be waived by a tenant even if a lease purports to waive such warranty.

In other words, in a residential lease or rental agreement a tenant simply cannot be required to pay for ordinary wear and tear or other expenses that are necessary to provide a habitable property. The landlord must, in all circumstances, provide a habitable property without exception.

This requirement sometimes results in disagreement between property owners and tenants. A tenant's idea of habitability is sometimes different from a landlord's understanding. We are currently dealing with a situation where a sewer backed up, causing raw sewer waste to sit in a tenant's bathtub and overflow into the bathroom. Immediately after learning of the problem, we had the bathroom professionally cleaned and sanitized and a plumber was called out to diagnose and fix the problem. From the tenants' perspective, this was an inadequate response. The tenant wants the entire bathroom to be removed with new cabinets and floors and walls. We think that a professional scrubbing was adequate. Nevertheless, there is no law that specifically deals with a situation such as this.

We are currently working with the tenants to reach a compromise but only time will tell if that is possible. We have offered to let the tenants opt out of their lease and have given a rent credit for the inconvenience arising from the situation. However, the tenant's current position is that those measures are inadequate. At the end of the day, if the tenants are unhappy living in the apartment then they need to move and, by the same token, the property owner will have to make the property habitable.

We obviously hope to reach a compromise between property owner and tenant that is reasonable, or at least acceptable, for all sides.

Credit Reporting Agencies are no longer providing information about judgments and major tax liens.

The raw credit score is now becoming even less meaningful because last year each of the national credit reporting agencies -- Equifax, Experian, and TransUnion -- announced that they will be removing all civil judgments and the majority of tax liens from their consumer credit reporting databases effective in 2018.

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One of the most important factors to consider when screening potential tenants is their credit history as it appears on a credit report. An applicant with a history of paying debts as agreed is far more likely to pay rent on time when compared with someone who is unable to maintain a good credit history. That said, there are different types of debt that a traditional credit score fails to distinguish between and that are relevant in this context.

At California West, we tend to give less weight to late pays for medical expenses and more weight to late pays for utilities and credit card because a person who is slow to pay an unexpected medical expense is often a better credit risk than someone who cannot pay an entirely predictable expense. The traditional credit score fails to take this distinction into account.

Another example of how a raw credit score number is less meaningful than the underlying information is when it reveals an eviction judgment against an applicant who dishonestly denies ever having been evicted. This is uncommon but we have seen it happen and it is clearly a huge red flag.

The raw credit score is now becoming even less meaningful because last year each of the national credit reporting agencies -- Equifax, Experian, and TransUnion -- announced that they will be removing all civil judgments and the majority of tax liens from their consumer credit reporting databases effective in 2018. As a result, this sort of information will no longer be used when calculating a traditional credit score. The problem that the reporting agencies were having is that sometimes this information about civil judgments and tax liens is wrong. For example, there might be a civil judgment against a person with a common name like "John Smith" and tying that civil judgment to the correct John Smith is often impossible given only public records. Therefore, many people were justifiably complaining about the inaccuracy of the information on their credit reports.

Unfortunately, the solution of removing all civil judgment and tax lien information from credit reports is a problem for landlords who look beyond the credit score number. However, for an additional fee the third party credit report provider that California West uses is offering a service that adds this information about civil judgments and tax liens back into the reports that we receive. Given the importance of this information, and the fact that we consider more than just a raw credit score number, we will be paying the higher fee to have as much information as possible when weighing the relative strength of various rental applications.