



Evicting Grandma

by Zachary Lawrence JD

There are situations in life when a landlord is presented with a problem to solve and the choices for solving the problem are all lousy. A Florida woman was arrested just days before her 94th birthday, when she refused to leave her home after being evicted, police said.

As of this writing, the woman remains held on \$500.00 bail, on a trespassing charge. The five foot, 100 pound woman was evicted from a senior living community after falling behind on her rent.

The woman was notified in advance of her impending eviction. She remained defi-

ant when the police showed up and, according to the arrest report told them "Unless you carry me out of here, I'm not going anywhere".

The frail woman then slumped herself on the floor as police tried to remove her from the premises. The woman had rejected all offers from the Senior Center and other agencies to help her find other accommodations.

So what's the best way for a California landlord to handle a situation like this? You have bills to pay and have an elderly tenant refusing to pay rent and vacate the premises.

I discussed this issue with my friend, mentor and eviction

expert, attorney Dennis Block, on our "Landlord-Tenant Radio" podcast. (The podcast can be seen at www.evict123.com)

Block: What happened to that elderly woman in Florida wouldn't happen in the state of California. There are a multitude of protections to prevent that from happening here.

I've handled evictions with tenants that are infirm or blind. When faced with similar circumstances, the L.A. County Sheriff would back off. They would just not execute the eviction on a tenant who is 94 and infirm. What they would do is call the Dept. of Social Services and schedule them to go to the tenant's unit, with the Sheriff, and together they would remove the tenant.

They would then place the elderly person in some facility and certainly won't throw an infirm person out on the street.

In fact, when we submit a writ (the court order authorizing the eviction) to the Sheriff's office, we provide instructions.

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In a case like this, we disclose if the person being evicted is infirm, handicapped, etc. Doing this allows the Sheriff to know in advance that he may need Social Services to accompany him to execute this eviction.

The Sheriff also needs to know if the landlord has knowledge of any guns or illegal contraband in the unit. (Dealing with a gun-packing granny smoking weed is beyond the scope of this article).

So unlike the state of Florida, California laws will not permit the Sheriff to physically remove an elderly or infirm person until the Department of Social Services arrives and assists with providing other housing accommodations for the tenant.

Social Services alone cannot enforce the court order to evict. Only a Sheriff can. That's why the Sheriff must be present for such an eviction. They would both physically remove the tenant.

This method may still sound harsh. But let's keep our eye on the ball.

It's not the landlord's responsibility to take care of his 94 year old tenant. That job is for the tenant's family, or Social Services.

Zac: Once evicted, what happens to then tenant's personal property, such as her

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wheelchair, oxygen tank, etc.?

Block: The personal property remaining in in the unit still belongs to the tenant. Under the law, the tenant has 15 days to retrieve their belongings.

Zac: Do really you expect this tenant to have the strength to come back and move their belongings?

Block: The landlord would likely collect the tenant's personal property and have it stored. Then, the tenant or her family has 15 days in which to retrieve the property. If they do not, and if the value of the property is valued at less that \$700.00, the landlord may dispose of the property.

If the property is worth \$700.00 or more, the landlord must hold a public auction. Once the expenses of holding the auction are paid, any remaining funds belong to the tenant.

Zac: Many elderly tenants have caretakers. What happens if the caretaker shows the Sheriff a doctor's note stating that the tenant is not to be moved?

Block: Great question Zac. In that case, the Sheriff would back off. Social Services would conduct their own evaluation and determine how to remove the tenant.

Zac: What happens when the elderly tenant passes away


and the caretaker remains in the unit?

Block: Quite often, we have a situation where the elderly tenant has passed away and the caretaker is now living inside the unit and refuses to move out. This person is now an unauthorized subtenant. In this situation, we are forced to evict. We must first serve on the caretaker a Three Day Notice to Quit.

Zac: So the moral of the story here is that the Three Day Notice to Quit is binding on any person occupying the unit, regardless if they are a lawful or unlawful tenant. Correct?

Block: True. But this particular Notice to Quit (on an unauthorized tenant) is very specific and should be drafted by an attorney.


Closing Thoughts

If you have an elderly, infirm or handicapped tenant who is behind on rent and refuses to vacate, contact your attorney for guidance on how to reclaim the premises and to provide alternative housing to the evicted tenant. 

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