

Considerations When Selling a Tenant-Occupied Home

Selling a tenant-occupied home is tricky but it can be done. Here are a few things to take into consideration as you decide how to accomplish the sale of your property. When does your lease expire? Under what circumstances does your lease give you the right to show the property to prospective buyers while the tenant is still there? Do you have the right to terminate a tenant prior to the expiration of your lease? How cooperative is your tenant? How well will the home show while the tenant is still in possession? Some tenants live like Martha Stewart but most don't, especially if they are in the process of packing to move.

The most important decision to make is whether to show the home to buyers while the tenant is still there or to wait to market the property for sale until after the tenant is out. The ideal outcome for most owners would be to collect rent from a tenant through the day of the sale. The financial benefit of this approach is obvious. However, it requires the cooperation of the tenant, and that is hard to get. Homes sell most quickly and for the most money when showing access is easy and they are in tip-top showing condition. If a tenant refuses to cooperate, the best outcome may be to wait until after the tenant is out.

From the tenant's perspective, there is little to be happy about when the owner decides to sell in the middle of a lease. From the time the tenant has signed a lease and taken possession of a property, the tenant is entitled to "quiet enjoyment" of the property through the term of the lease. Frequently it is not convenient for a tenant to move in the middle of a lease. Tenants living in a home are rarely pleased to be interrupted by agents knocking on the door to show the home to buyers. They are even more rarely motivated to keep the home in ideal showing condition while it is being shown.

Here are two worst case scenarios, both of which I have personally experienced while trying to sell tenant-occupied homes. First, the tenant may simply refuse to allow access. An agent comes to the home with a buyer and rings the doorbell. The tenant rudely tells the agent and buyer to go away and slams the door. Assuming your lease gives you the right to show the property prior to lease expiration, your only recourse when the tenant refuses to allow access is to terminate the lease and evict the tenant for holding over. This can take months. Second, even if you can get access, the tenant may have horrific living habits and the home may be an unsanitary mess. Trying to sell a home in that condition may cost you more than the rent you'll miss after the tenant has left.

If your property has been leased by Ritan Property Group, here are your rights as a landlord regarding sale of the property: You have the right to show the property to buyers during the last 30 days of the lease. If it is not the last 30 days of the lease, you don't have the right to show the property to buyers. The tenant can just say "no" to showing access and make it stick. You also have the right to terminate the lease early if you give the tenant 60 days notice and compensate the tenant by giving them one month's rent after they move out. The 2010 lease states in Section 25, "Early Termination by Landlord,"

Tenant agrees that Landlord may terminate the lease prior to lease expiration date and Tenant agrees to vacate the property if the following conditions are met: A) Landlord gives Tenant sixty (60) days written notice to vacate (Tenant still owes rent through the sixty (60) day notice period). B) Landlord pays to tenant an amount of one month's rent as compensation for disturbing tenant's quiet enjoyment of the property and for the inconvenience of moving early. This credit will be applied to the Tenant account at the time the Tenant vacates the property and will be included with any applicable security deposit refund.

Under the terms of your lease you can give the tenant 60 days notice in the middle of a lease and then show the property for the last 30 days of that 60 day period, if the tenant allows access to buyers and if the condition of the property is such that it makes financial sense to show it to buyers while the tenant is still there.

One pitfall here is when you give notice, the tenant leaves, and the sales contract falls through. When the sales market is difficult for sellers, it is common for contracts to fall apart before closing. Then you have a vacant property, no sale and no rent.

Sometimes it is possible to negotiate a deal with the tenant so that everybody wins. I once negotiated with a tenant to reduce their rent from \$1000 to \$800 in exchange for allowing the property to be shown while they were there and their agreement to leave on 30 days notice. This worked fine for them. It wouldn't work for everyone. What does your tenant want? A big-screen TV? Reduced rent? Moving expenses in addition to one month's free rent?

In sum: Under the Ritan Property Group lease, you only have the right to show the home to buyers during the last 30 days of a lease. If your tenant can be induced to cooperate, it may be in your best interest to sell the home while the tenant is still there. If not, you are better off getting the tenant out of the property and then selling it vacant.