

Kimball, Tirey & St. John LLP

Money Judgment Advantages

Ted Kimball, Esq.

May, 2010

Unless your unlawful detainer case went to trial, you have the option of obtaining a monetary judgment after your tenant vacated the property. There are several compelling reasons to continue the action to obtain a money judgment.

1. A money judgment can be collected even from an uncooperative former tenant.

Without a judgment, an unpaid balance can be collected from a former tenant only using the collector's powers of persuasion and threats of reporting unpaid debt to credit reporting agencies. However, if the landlord has a money judgment, the former tenant's cooperation is no longer necessary; with a money judgment, an arsenal of involuntary collection tools becomes available. These involuntary collection tools include wage garnishments, bank account levies, vehicle seizures, seizure of other non-exempt personal property, till taps and keepers, and judgment debtor examinations.

2. A money judgment extends the time period for collection. The statute of limitations for breach of a written lease is four years. Therefore, if a landlord does not obtain a money judgment, the landlord must cease collection efforts after four years. A money judgment extends the time period for collection to 10 years or more; a money judgment is effective for 10 years and can be renewed for additional 10 year periods.

It is not uncommon for a person's financial situation to change significantly in a 10 year period. Many landlords who have obtained money judgments have been pleasantly surprised when they are paid years after a tenant's breach of a lease, when the tenant is required to pay off a money judgment in order to qualify for credit to purchase a home or car.

3. Interest accrues on a money judgment. Simple interest, at a rate of 10%, will accrue on the judgment amount. This 10% interest rate is a better return than a landlord can earn from many other investments.

The landlord's right to collect 10% interest on the judgment amount may encourage the former resident to pay the judgment to avoid responsibility for interest in addition to the principal amount due. The ability to assess interest at a rate of 10% also gives a landlord collection leverage; a landlord can reduce or waive interest, (and avoid discounting the principal balance); as a tool to encourage voluntary payment.

4. A final money judgment prevents a tenant from disputing the amount owed. Once a money judgment is final, (after the time period to appeal has expired), a former tenant cannot successfully challenge the judgment's validity or the amount due. A money judgment definitively establishes the amount of the debt.

5. A money judgment decreases a former tenant's credit score, which may motivate the tenant to pay amounts due. Credit reports include judgment information, and a former tenant's credit rating will be affected by a money judgment. A former tenant may not qualify for credit (including future housing) if a money judgment is decreasing the former tenant's credit

score. This may motivate a former tenant to satisfy the money judgment to avoid being denied credit (or charged a higher interest rate because of a lower credit score).

6. A judgment avoids potential landlord liability for the tenant's court costs and/or attorney's fees. If a landlord dismisses before entry of judgment, even if the dismissal is the result of the tenant vacating, a tenant may claim to be the prevailing party, and attempt to collect attorney's fees and costs from the landlord.

A money judgment ensures that the landlord will be found to be the prevailing party, and eliminates the possibility that the landlord could be held responsible for the tenant's attorney's fees and/or costs.

7. A money judgment will ensure that the tenant will be financially responsible for the landlord's court costs and attorney's fees. An unlawful detainer money judgment will be comprised of rent owed up to the time of possession is returned to the landlord for uncontested cases, (up to the date of trial for contested cases), and court costs. Typical court costs awarded in California can include the following:

\$220.00	Filing Fee
\$45.00	Process Service Fee (per defendant)
\$25.00	Writ Fee
<u>\$125.00</u>	<u>Sheriff Fee</u>
\$415.00	Total

An unlawful detainer money judgment will also include attorney's fees if the lease or rental agreement has an attorney's fee provision. Attorney's fees are generally determined under a court schedule, based on the amount of the judgment for rent. For instance, if the amount of rent owed is \$1,100.00, a typical attorney's fee award would be \$300.00. If the rent owed is \$2,200.00, a typical attorney's fees award would be \$450.00. The attorney's fee schedule may vary between courts. A money judgment can help ensure the landlord's recovery of attorney's fees and costs from the former tenant.

Money judgment advantages. As explained above, there are a number of very good reasons for landlords to pursue money judgments. The cost to obtain a money judgment is very reasonable, and many landlords and property managers have found that obtaining money judgments in all of the unlawful detainer matters is a wise investment that helps them maximize their collections and improve their bottom line.

Kimball, Tirey & St. John LLP is a full service real estate law firm representing residential and commercial property owners and managers. This article is for general information purposes only. Before acting, be sure to receive legal advice from our office. If you have questions, please contact your local KTS office. For contact information, please visit our website: www.kts-law.com. For past Legal Alerts, Questions & Answers, and Legal Articles, please consult the resource library section of our website.