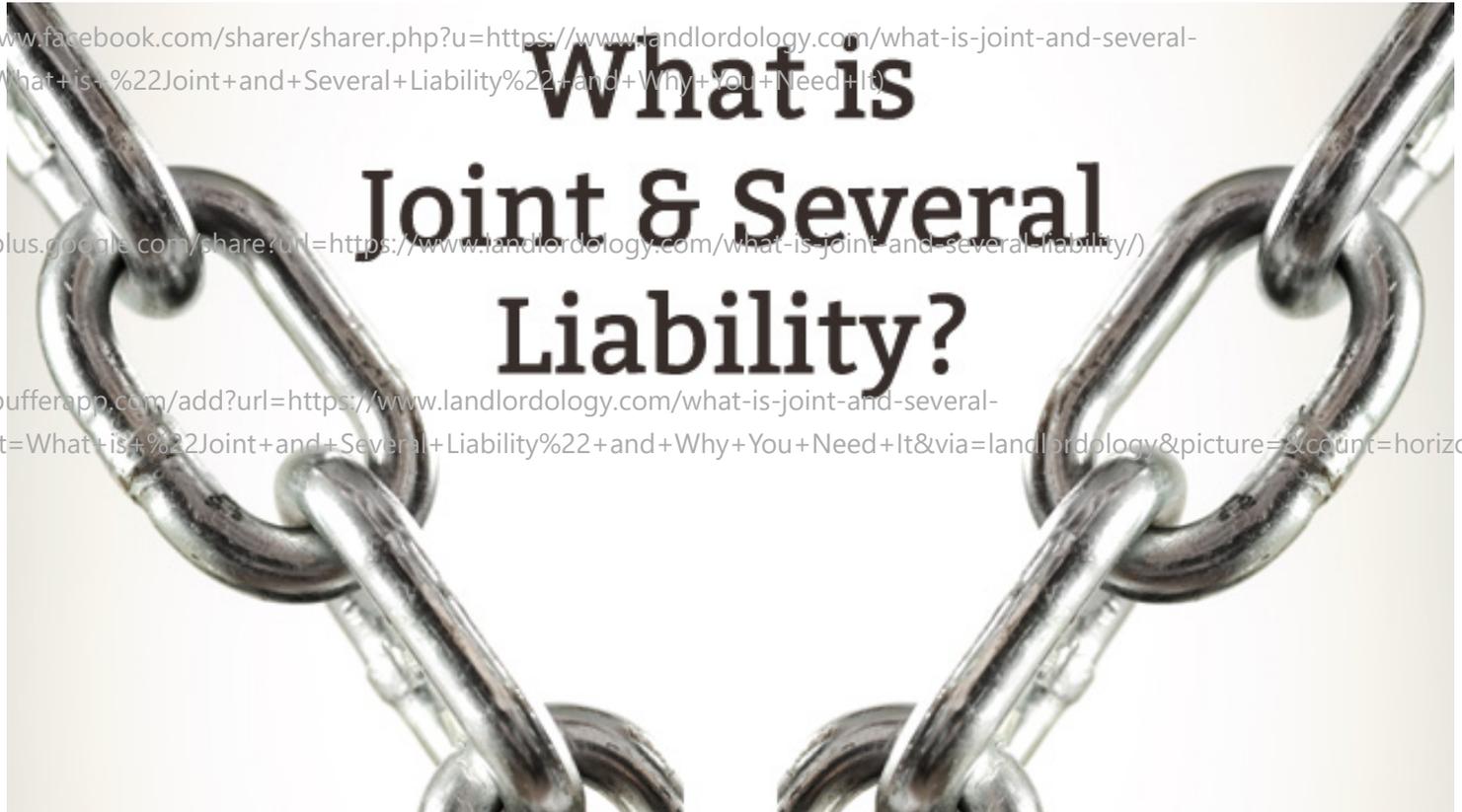


What is “Joint and Several Liability” and Why You Need It

Last updated on January 24, 2016 by Lucas Hall
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What is “Joint and Several Liability”?

In Basic Language:

For a residential lease, joint and several liability means that each tenant is jointly AND separately responsible for the entire rent amount and for any damages.

According to Nolo (<http://www.nolo.com/legal-encyclopedia/free-books/renters-rights-book/chapter6-2.html>), here's what it means for tenants:

- **One for all.** You can demand the entire rent from just one cotenant. The rent-sharing understanding the tenants have with one another is immaterial to you. In other words, even if one tenant pays \$400 for a tiny room and another roommate pays \$800 for a master suite, each tenant is still liable for the full \$1,200 rent, even if some of the tenants flake out.
- **All for one.** Even innocent cotenants will suffer the consequences of one cotenant's misdeeds. Unfair as it seems, the crazy party that one roommate threw can result in a termination notice directed to all tenants.

In Legal Terms:

“Joint and several liability” is where two or more persons are liable in respect of the same liability.

Under *joint and several liability* or all sums, a claimant may pursue an obligation against any one party as if they were jointly liable and it becomes the responsibility of the

defendants to sort out their respective proportions of liability and payment.

This means that if the claimant pursues one defendant and receives payment, that defendant must then pursue the other obligors for a contribution to their share of the liability.

This obligation is normally spelled out in a lease clause, in leases which are signed by two or more tenants.

Why is this Important?

Forcing joint and several liability with your tenants will allow you to view them as a single entity. I recommend using a special clause in your lease that creates this type of liability among your tenants.

Feel free to use [my lease clause found below](#). Trust me, it will make your life as a landlord, much easier.

In case you don't believe me, there are many realistic situations where this stipulation will come in handy:

1

Scenario 1: Full Rent Responsibility

Let's say that you are renting to a group of tenants. Half of the tenants decide to move out randomly (without telling you), and the remaining tenants are then left not sure how they will pay the full rent amount next month without the other missing tenants.

If you use a clause that forces "*joint and several liability*", each tenant will still be on the hook for paying the full rent amount, and not just "their" portion of it.

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Scenario 2: Pursuing One Instead of All

All your tenants skip on rent, trash the property, and then disappear. You can only find/track down one of them.

This clause lets you pursue that single tenant for all remaining debt owed, and for the full damage done to the property.

For example: One tenant decides to get a dog who chews up all the trim and moulding, and ruins the hardwood floors. You are allowed to use the security deposit to make repairs, even if the dog's owner didn't contribute any money to the original deposit.



Scenario 3: Communication

When giving an advanced notice (like a notice that you will be coming over to make repairs), you can give it to one of the tenants, and it counts legally sufficient notice to all the tenants.

This clause allows you to assume that it is the tenant's responsibility to effectively communicate any of your messages to one another.

My Lease Clause

In order to protect yourself, you should have a clause in your lease that forces “joint and several liability” from your tenants.

Personally, I use the following language in my leases.

Feel free to use this clause as well:

MULTIPLE TENANTS OR OCCUPANTS. Each Tenant(s) is jointly and severally liable for all Lease Agreement obligations. If any Tenant(s), guests, or occupant violates the Lease Agreement, all Tenant(s) are considered to have violated the Lease Agreement. Landlord’s requests and notices to any one Tenant(s) constitute notice to all Tenant(s) and occupants. Notices and requests from any one Tenant(s) or occupant (including repair requests and entry permissions) constitute notice from all Tenant(s). In eviction suits, each Tenant(s) is considered the agent of all other Tenants in the Premise for service of process. A notice to vacate must be signed by all Tenant(s) or it will not be considered valid.

Exceptions

Currently, in common law, there is no direct relationship between actual responsibility and potential responsibility – which is great for landlords.

However, some states have modified this rule. According to Wikipedia (http://en.wikipedia.org/wiki/Joint_and_several_liability):

Many states have limited the applicability of the rule of joint and several liability. California and Ohio have retained joint and several liability only for economic damages, such as medical expenses and lost wages. Illinois has abolished joint and several liability of defendants less than 25% at fault. Iowa and New York have abolished joint and several liability for parties less than 50% at fault. Louisiana and Mississippi allow joint and several liability only to the extent necessary to cover 50% of the plaintiffs damages.

The potential legal reform of this clause could include abolition of the rule of joint and several liability and adoption of a rule of pure several (“proportionate”) liability. A party would be liable for damages only in an amount proportionate to his or her responsibility for the

plaintiffs harm. A defendant found 10% responsible for plaintiff's harm would be liable for 10% of plaintiff's damages.

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About Lucas Hall

Lucas is the Chief Landlordologist at Cozy

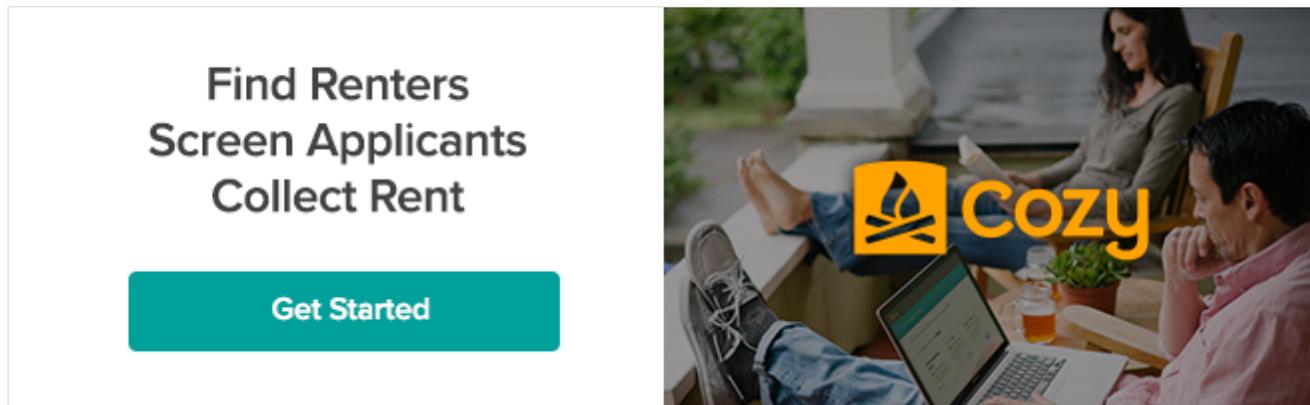
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[utm_source=Landlordology&utm_medium=author%20block](https://cozy.co/?utm_source=Landlordology&utm_medium=author%20block)

He has been a successful landlord for over 10 years, with dozens of happy tenants and a profitable income property portfolio.

Read more about Lucas's story

(<http://www.landlordology.com/about/#lucas>).

An advertisement for Cozy.com. On the left, a white box contains the text "Find Renters", "Screen Applicants", and "Collect Rent" stacked vertically, with a teal "Get Started" button below. On the right, a photograph shows a man and a woman sitting at a table with a laptop, with the Cozy logo overlaid in the center.

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