



Rights of Tenants: The Eviction Process

WHEN CAN MY LANDLORD EVICT ME?

Your landlord may start an action in court for eviction, or “unlawful detainer,” in any of the following situations:

1. After your landlord has served you with a notice for failure to pay rent or for failure to comply with your lease and you have not complied with the provisions of the notice; or
2. When your landlord has served you with a 30, 60, or 90 day notice to vacate and you have not moved within the 30, 60, or 90 days; or
3. When you have a fixed-term lease and you have not moved by the end of the period stated in the lease; or
4. If your unit is provided to you as part of your employment compensation and your employment terminates.

Your landlord cannot throw you out or have the Sheriff evict you just by giving you a notice! Evictions can only happen after the landlord gets a court order through a court process, as described below.

WHAT IS THE UNLAWFUL DETAINER (EVICTON PROCESS)?

When the landlord has given you a written notice and the time in the notice has ended, he/she can file eviction papers with the Court.

This is called an “Unlawful Detainer” Complaint. After the case is filed, the landlord will have you served with the Complaint and the Summons. You will have five calendar days from the date you receive these papers to respond by filing your own papers with the court. Weekends are included in counting the five days.

The most typical response filed by a tenant is called an “Answer.” There is a special form provided by the Court for filing an Answer. If you do not file a response within five calendar days, the landlord may take a default judgment against you. This means that you will lose the case without the chance to go to court and tell your story.

If a default is entered, the Sheriff will come out and post a “Notice to Vacate.” If you do not move out before the date on the Sheriff’s notice, the Sheriff will physically remove you and lock up the premises. If your possessions are locked inside the premises, you can still reclaim your possessions within 15 days of the eviction, but you may have to pay storage costs to recover your property.

If you do file an Answer within the five calendar days, you will get a court hearing. The trial will usually be set within about three weeks from the date you file your Answer. If you WIN at

the trial, you will get to stay at the in the premises. You will also have to pay all back rent ordered by the court within five days of the end of the trial.

Furthermore, if you WIN at trial, the landlord will have to repay you of all your costs. If the rental agreement provides attorney's fees to the winning person, the landlord will also pay attorney's fees to your lawyer.

If you LOSE the trial, the landlord can have the Sheriff serve you with a "Notice to Vacate" that will set a date to evict you in about five days. If you do not move by the date on the Sheriff's notice, the Sheriff will physically remove you and lock up the premises. If your possessions are locked inside the premises, you can still reclaim your possessions within 15 days of the eviction, but you may have to pay storage costs to recover your property. However, the landlord cannot require you to pay past due rent or any amount of the court judgment as a condition of returning your possessions.

Depending on how a notice or a complaint is served and written, you may have other legal options not discussed here. You should obtain legal advice as soon as possible after receiving an unlawful detainer Summons and Complaint from your landlord.

**IF YOU ARE SERVED WITH A COURT SUMMONS AND COMPLAINT, CALL THE
LEGAL AID SOCIETY AT (650) 517-8911 or 1-800-381-8898.
DO NOT WAIT - EVERY DAY COUNTS.**