



## Rights of Tenants:

# 3 Day Notice to Pay Rent or Move Out (aka “Quit”)

### **Is your landlord trying to evict you for not paying the rent?**

State law allows a landlord to evict a tenant who does not pay the rent owed by serving a “Three Day Notice to Pay Rent or Move Out (or “Quit”)”. (CA Code of Civil Procedure §1161 2.) The tenant has three days, not counting weekends and holidays, to pay the rent or face eviction.

### **A Three Day Notice to Pay Rent or Move Out Must Include:**

- The correct amount owed when it is served; it cannot overstate the amount you owe;
- The location of where to pay the rent owed, either by delivery or by mailing or deposit to an account (beware - the location may be different than where you normally pay your rent);
- When to pay – the days and times to deliver the payment if it is in person;
- A phone number and name of the person to contact to discuss payment.

### **What are your options if you are served with a Three Day Notice to Pay Rent or Move Out?**

- If you have the money owed, pay rent within the three days where directed in the notice;
- If you don’t have the money owed, seek out rental assistance from local non-profits;
- If you have the money the landlord is demanding, but you disagree that you owe the amount demanded, you can pay it “under protest,” and then try to work it out after;
- If you disagree with the amount demanded and either don’t have that amount or don’t want to pay it “under protest,” send your landlord a letter or e-mail contesting the amount owed;
- We *do not* recommend withholding rent money when you have it *for any reason*, there are other ways to work out disputes with landlords that do not put you at risk of eviction.

### **What are some ways the landlord gets the amount of rent owed wrong?**

The amount of rent owed, and when it is due, is usually determined by the rental agreement, either written or oral, between you and the landlord. Read your rental agreement if you have questions. A three-day notice that demands more rent than you actually owe does not support eviction. Some of the mistakes landlords make in demanding rent include:

- Landlord does not give you credit for some rent payments that you did make;
- Landlord has given you an illegal rent increase and does not have the right to collect the full rent demanded. For example, tenancies protected by the *Tenant Protection Act* have a limit as to how much the landlord can raise the rent in a year;
- Landlord may have included excessive late fees, or other improper charges, in the amount demanded in the three-day notice;
- Landlord has failed to make repairs to serious conditions in your home that could result in the reduction of your rent until the repairs are made.

### **How must my landlord serve the three-day notice?**

The law allows a landlord to serve the notice in the following ways:

1. Personally handing it to the tenant; or
2. Leaving a copy at the tenant's home with another person, or posting it on the door, *and* then also mailing a copy;

Beware that most judges will ignore technical problems with *how the notice was served*, so long as the tenant actually received the notice. Defective service rarely defeats the eviction.

### **What if the landlord accepts my rent after the three days have expired?**

If the landlord accepts rent after expiration of the notice, this might constitute a withdrawal or waiver of the notice. If you still owe some rent and the landlord still wants you to move after waiving a prior notice, a new three-day notice with the new amount owed may be required.

### **What happens if I do not pay the rent within the three days?**

A landlord cannot force you to move until they have obtained a court order. A landlord may begin an "Unlawful Detainer" (eviction) case in court if you have not paid the rent demanded. After receiving the court papers called the **Summons and Complaint--Unlawful Detainer**, you must respond **within five (5) court days** by filing response papers with the court (usually called an "Answer"). You can also request a waiver of the court fees if you cannot afford the filing fee (currently \$225). If you file a timely response with the Court, you will have court dates scheduled no sooner than about three weeks later, with an opportunity to negotiate a settlement or go to trial.

If you fail to file a response within five days of being served, a default judgment could be entered against you, which means you have lost the case without the opportunity to tell your side in court. If you lose the case by default or in court after a trial or a settlement you breach, the sheriff will post a **Notice to Vacate** on your door giving you about one week to move out. If you do not move by that date, the sheriff will come out and *physically remove you* from your home and the locks will be changed. You will have to make arrangements with the landlord to get any property left behind.

**FOR HELP WITH AN UNLAWFUL DETAINER CASE,  
CALL LEGAL AID'S HOUSING INTAKE LINE  
(650) 517-8911**