

## UNLAWFUL DETAINER

# Evictions

*The information in this guide pertains to basic residential evictions. Different laws and procedures apply to evictions from hotels, subsidized housing, commercial properties, and mobile homes. Ask a Law Librarian for more information about these other types of evictions.*

### **BASICS**

An eviction (also called an “unlawful detainer”) is the legal process used by a landlord to remove a tenant from a rental property. California law provides very strict guidelines and procedures for unlawful detainer actions. A landlord’s failure to comply with these guidelines may result in the court dismissing the eviction case.

#### **1. Notice**

To end a tenancy, the landlord must provide written notice to the tenant. A specific form is not required, but the notice must be in writing and must include certain information, such as the tenant’s name, the address of the property, and the number of days’ notice being provided. Different types of notice are required, based on the reason for the eviction.

#### **Three-Day Notice**

Three-day notices are used to terminate a tenancy for cause, such as non-payment of rent, violation of the rental agreement, or criminal activity on the premises. If the problem is corrected within three days, the tenancy continues. Some problems, such as illegal activity on the premises, cannot be corrected.

#### **30-Day/60-Day Notice**

If the tenant is renting on a periodic basis, such as month-to-month, the landlord can terminate the tenancy by providing a 30- or 60-day notice. State law does not require the landlord provide any reason for terminating the tenancy. Be aware that some local cities have enacted “just cause” requirements for evictions; no cities in Sacramento County currently have such a law. Thirty-day notices are used if the tenant has lived in the rental property less than a year; 60-day notices are required if the tenant has lived in the rental for a year or longer. If the tenant is in the middle of a lease, tenancy cannot be terminated in this way.

#### **90-Day Notice**

In certain situations, the landlord is required to provide a 90-day notice to terminate a tenancy. This is most common with certain types of subsidized housing and properties purchased at foreclosure.

These notices are not “evictions.” A notice does not mean the case will go to court, and it will not appear on the tenant’s credit report. It is simply a notice from the landlord informing the tenant that they must move out. For more information about Notices to Terminate Tenancy, see these resources:

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**California Courts Self-Help Website**

[www.courts.ca.gov/27723.htm](http://www.courts.ca.gov/27723.htm) and [www.courts.ca.gov/27812.htm](http://www.courts.ca.gov/27812.htm)

**California Eviction Defense Manual** [KFC 145 .E9 M68](#) Chaps. 5-8

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**The California Landlord's Law Book: Evictions** [KFC 145 .B76](#) (Self-Help) Chaps. 2-5

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

**The California Landlord's Law Book: Rights and Responsibilities**

[KFC 145 .B767](#) (Self-Help) Chaps. 16 and 18

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

**California Landlord-Tenant Litigation** [KFC 145 .C35 M38](#) Chap. 4

**Electronic Access:** On the Law Library's computers, using *Lexis Advance*.

**California Landlord-Tenant Practice** [KFC 145 .C36](#) Chap. 8

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Practice Guide: Landlord-Tenant** [KFC 145 .F74](#) Chap. 7

**Electronic Access:** On the Law Library's computers, using *Westlaw*.

**California Tenants' Rights** [KFC 145 .P67](#) (Self-Help) Chap. 14

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

**Handling Unlawful Detainers** [KFC 145 .C34](#)

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**Landlords, Tenants and Property Management** [KFC145 .P73](#) (Self-Help) Chaps. 20-23**Real Estate Property Management** [KFC145 .P75](#) (Self-Help) Chaps. 25-29

## 2. Complaint for Unlawful Detainer

If the tenant does not vacate the premises or correct lease violations by the end of the noticed time period (3, 30, 60, or 90 days), the landlord may file a Complaint for Unlawful Detainer with the court. "Unlawful Detainer" is the legal term for an eviction. For more information about the Complaint for Unlawful Detainer, see these resources:

**California Courts Self-Help Website**

[www.courts.ca.gov/28664.htm](http://www.courts.ca.gov/28664.htm) and [www.courts.ca.gov/28660.htm](http://www.courts.ca.gov/28660.htm)

**California Eviction Defense Manual** [KFC 145 .E9 M68](#) Chap. 11

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**The California Landlord's Law Book: Evictions** [KFC 145 .B76](#) (Self-Help) Chap. 6

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

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**California Landlord-Tenant Litigation** [KFC 145 .C35 M38](#) Chap. 5

**Electronic Access:** On the Law Library's computers, using *Lexis Advance*.

**California Landlord-Tenant Practice** [KFC 145 .C36](#) Chap. 9

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Practice Guide: Landlord-Tenant** [KFC 145 .F74](#) Chap. 8

**Electronic Access:** On the Law Library's computers, using *Westlaw*.

**Handling Unlawful Detainers** [KFC 145 .C34](#)

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

### 3. Response

After receiving the complaint, the tenant has five days to file and serve a response. When counting these five days, include weekends, but do not include court holidays. If the fifth day is a weekend or court holiday, the response is due by close of business the next court day.

There are numerous ways to respond to a Complaint for Unlawful Detainer. More information about responsive options is available from these resources:

**California Courts Self-Help Website**

[www.courts.ca.gov/27757.htm](http://www.courts.ca.gov/27757.htm) and [www.courts.ca.gov/27822.htm](http://www.courts.ca.gov/27822.htm)

**California Eviction Defense Manual** [KFC 145 .E9 M68](#) Chaps. 13-16

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Landlord-Tenant Litigation** [KFC 145 .C35 M38](#) Chap. 5

**Electronic Access:** On the Law Library's computers, using *Lexis Advance*.

**California Landlord-Tenant Practice** [KFC 145 .C36](#) Chap. 10

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Practice Guide: Landlord-Tenant** [KFC 145 .F74](#) Chap. 8

**Electronic Access:** On the Law Library's computers, using *Westlaw*.

**California Tenants' Rights** [KFC 145 .P67](#) (Self-Help) Chap. 15

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

### 4. Default

If the tenant does not respond to the Complaint within five days, the landlord may pursue a default judgment. A default judgment allows the landlord to evict the tenant without the tenant participating in the court proceedings. More information about pursuing a judgment by default is available from these resources:

**California Court Self-Help Website**

[www.courts.ca.gov/27757.htm](http://www.courts.ca.gov/27757.htm)

**California Eviction Defense Manual** [KFC 145 .E9 M68](#) Chap. 12

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

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**The California Landlord's Law Book: Evictions** [KFC 145 .B76](#) (Self-Help) Chap. 7

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

**California Practice Guide: Landlord-Tenant** [KFC 145 .F74](#) Chap. 8

**Electronic Access:** On the Law Library's computers, using *Westlaw*.

## 5. Trial

If the tenant does respond, the case will move to trial. The landlord must submit a request to set the case for trial. The hearing will be scheduled within 20 days of this request. More information about setting the case for trial is available from:

**California Courts Self-Help Website**

[www.courts.ca.gov/27766.htm](http://www.courts.ca.gov/27766.htm) and [www.courts.ca.gov/27840.htm](http://www.courts.ca.gov/27840.htm)

**California Eviction Defense Manual** [KFC 145 .E9 M68](#) Chap. 25

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**The California Landlord's Law Book: Evictions** [KFC 145 .B76](#) (Self-Help) Chap. 8

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

**California Landlord-Tenant Litigation** [KFC 145 .C35 M38](#) Chap. 5

**Electronic Access:** On the Law Library's computers, using *Lexis Advance*.

**California Landlord-Tenant Practice** [KFC 145 .C36](#) Chap. 11-12

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Practice Guide: Landlord-Tenant** [KFC 145 .F74](#) Chap. 9

**Electronic Access:** On the Law Library's computers, using *Westlaw*.

**Handling Unlawful Detainers** [KFC 145 .C34](#)

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

## 6. The Judgment

Whether the case is decided by default or after a trial, the judge will issue a judgment. If the judgment is in favor of the landlord, the court will issue a "judgment of possession," returning the property to the landlord, and possibly a money judgment for past-due rent and court costs. The cost of repairing and cleaning the property cannot be awarded during an unlawful detainer lawsuit. The landlord can pursue that type of case in small claims court.

The landlord can use the judgment to obtain a "Writ of Execution." The Writ of Execution can be used to have the sheriff evict the tenant, and to enforce any money judgment the court may have granted. More information about judgments in unlawful detainer cases is available from these resources:

**California Courts Self-Help Website**

[www.courts.ca.gov/28667.htm](http://www.courts.ca.gov/28667.htm) and [www.courts.ca.gov/28663.htm](http://www.courts.ca.gov/28663.htm)

**California Eviction Defense Manual** [KFC 145 .E9 M68](#) Chaps. 26-28, 30

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

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**The California Landlord's Law Book: Evictions** [KFC 145 .B76](#) (Self-Help) Chap. 9

**Electronic Access:** From any computer (Law Library or home) via the Legal Information Reference Center. Instructions are available on our website at [saclaw.org/nolo-ebooks](http://saclaw.org/nolo-ebooks).

**California Landlord-Tenant Litigation** [KFC 145 .C35 M38](#) Chap. 5

**Electronic Access:** On the Law Library's computers, using *Lexis Advance*.

**California Landlord-Tenant Practice** [KFC 145 .C36](#) Chap. 13

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

**California Practice Guide: Landlord-Tenant** [KFC 145 .F74](#) Chap. 9

**Electronic Access:** On the Law Library's computers, using *Westlaw*.

**Handling Unlawful Detainers** [KFC 145 .C34](#)

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

## 7. Community Resources

The process described above applies to a simple eviction case. There are many alternate paths that a case may take. Many of the resources described in this guide will provide details about these alternatives. Additional information and assistance with landlord-tenant issues is available from these community resources:

### **Unlawful Detainer Advisory Clinic**

Carol Miller Justice Center, 301 Bicentennial Circle, 3rd Floor

Monday – Friday 8:00 am -12:00 pm & 1 pm – 4:00 pm

**Services provided:** Assists both landlords and tenants.

**Eligibility:** First come- first served. A sign-up sheet is located in the hallway outside the clinic.

### **Sacramento Self Help Housing- Landlord-Tenant Helpline**

<http://rentershelpline.org/>

(916) 389-7877

**Services provided:** Offers information and counseling for both tenants and landlords within Sacramento. Spanish services available.

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