



# 3 DAY NOTICE TO PAY OR QUIT

## WHAT IS A 3 DAY NOTICE TO PAY RENT OR QUIT?

This is a written notice from your landlord saying that you owe back rent, and demanding that you pay the rent or move within three days. A landlord must give you this kind of notice before he or she can legally evict you for not paying rent.

## WHEN WILL I GET A 3 DAY NOTICE?

Your landlord will probably give you a 3 day notice when s(he) thinks you are behind in your rent. The notice is not valid if served before your rent is late.<sup>1</sup> For example: If your rent is due on a Saturday, Sunday or holiday, it is not actually due until the next working day. So if your rent was due on the 1<sup>st</sup> day of March, and that day is a Saturday, your rent can be paid on Monday, and is not late until Tuesday.

## WHAT SHOULD I DO IF I GET A 3 DAY NOTICE?

If you want to stay in your apartment, and the amount the notice says you owe is correct, you should pay the rent due within the three days. Under CCP§ 1161 the notice should state the name, telephone number, and address of the person to whom the rent payment should be made. Pay attention to the notice to make sure that you are paying your rent in the way that the notice asks you to pay.

## DO I HAVE TO LEAVE MY APARTMENT WITHIN 3 DAYS ONCE I GET THE NOTICE?

You **DO NOT** have to leave your house or apartment after receiving a 3 day notice. To evict you, your landlord has to file a case in court after the three days on the notice have passed. You do not have to move out until a judgment has been entered against you and a Sheriff proceeds with a legal lockout. In addition, there may be reasons that you do not have to pay the rent demanded in the 3 day notice. You have a chance to state these reasons in court.

## HOW DO I COUNT THE DAYS ON THE 3 DAY NOTICE?

Start counting the day after you receive the notice. You have up to day 3 to pay.

| Day Notice was Received        | Last Day to Pay |
|--------------------------------|-----------------|
| Sunday                         | Wednesday       |
| Monday                         | Thursday        |
| Tuesday                        | Friday          |
| Wednesday, Thursday, or Friday | Monday          |
| Saturday                       | Tuesday         |

\* IF THE LAST DAY IS A HOLIDAY, YOU CAN PAY ON THE NEXT WORKING DAY.

<sup>1</sup> *Lyndon v. Beach* (1928) 89 Cal.App. 69, 74, 264 P. 511, 513.

## WHAT KIND OF 3 DAY NOTICE IS LEGAL?

According to CCP § 1161, all 3 day notices to pay rent or quit MUST have at least the following:

- It must be in writing. A verbal demand to pay rent is not valid.
- It must give you the choice to pay the rent OR move.<sup>2</sup>
- It must accurately state the amount of rent you owe.

The notice must also be properly served. Usually someone must personally hand the notice to you or to someone who lives in your house or apartment.

## CAN MY LANDLORD JUST MAIL THE 3 DAY NOTICE TO ME?

No. According to CCP § 1162 your landlord must do one of the following:

1. Give you the notice in person
2. Leave it with someone at your home who is of suitable age
3. Leave it at your work, and, if it is left with someone, a copy must be mailed to you
4. If no one of suitable age is found, or your work place is not known, the notice must be taped to your door, and a copy mailed to you.

**NOTE:** If you actually received the 3 day notice, the judge will probably disregard any problems in the way you were served.

## WHAT IF MY LANDLORD SAYS I OWE MORE RENT THAN I REALLY DO?

If the 3 day notice says you owe more rent than you really do, then the notice is not valid.<sup>3</sup> Your landlord cannot evict you based on an invalid notice. You may write a letter to the landlord stating that the notice is wrong. If the notice demands less rent than you owe, however, the landlord may still be able to evict you based upon this notice, even though it is wrong. If you think that the amount of rent being demanded is more than can be charged under the rent control ordinance, you can file a complaint with the Housing Department of the City of Los Angeles by calling (866) 557-7368.

## WHAT IF I AM NOT PAYING RENT BECAUSE THE APARTMENT IS IN BAD CONDITION?

If you have informed your landlord about defective conditions in your apartment that AFFECT YOUR HEALTH AND WELFARE, and your landlord has not done the repairs, you have the legal right to withhold your rent. However, because withholding rent usually leads to an eviction LAFLA **does not** recommend that you withhold rent without consulting with an attorney first. We suggest that you take the following steps to have your landlord fix your unit:

1. Take pictures of the problem(s)
2. Write a letter to your landlord informing him/her of the problem(s)
3. Contact the code enforcement agency/health department of your city for an inspection of your apartment. If you live in Los Angeles you may call LAHD at (866) 557-7368 and you may call the Los Angeles County Health Dept. at (800) 427-8700.

<sup>2</sup> *Hinman v. Wagnon*, 172 Cal.App.2d 24 (1959)

<sup>3</sup> *Nourafchan v. Miner* (1985) 169 Cal.App.3d 746, 753, 215 Cal.Rptr. 450, 455.