

landlord or his agent retaliate or threaten to retaliate.

The law presumes that the action was “retaliatory” if the landlord or his/her agent raises your rent, reduces services or evicts you within 180 days (6 months) after you have exercised a “lawful right.” If the landlord tries to evict you in this situation, you can claim “retaliation” as an affirmative defense in an “unlawful detainer” (eviction) proceeding.

WHAT HAPPENS IF I DON'T MOVE BY THE END OF THE NOTICE PERIOD?

A landlord may begin an “Unlawful Detainer” action in court if you do not move out by the end of the notice period. The “Unlawful Detainer” action and an eviction lawsuit mean the same thing.

After receiving the court papers called the Complaint (Unlawful Detainer) and Summons, you must respond within 5 calendar days by filing your papers (Answer) with the court. Include the weekends and holidays when counting the 5 days.

If you fail to answer within 5 days, a default judgement will be entered against you, which means you have lost the case without the opportunity to tell your side in court.

The sheriff will then come to your home and post a notice on the premises giving

you at least 5 more days to move. If you do not move within those 5 days, the sheriff will come out and physically remove you from the premises and lock the door. If your possessions are locked inside the place, you will have to pay a storage fee to get your property back.

FOR MORE INFORMATION OR ASSISTANCE CALL THE LEGAL AID SOCIETY OF SAN MATEO COUNTY:

(650) 558-0915 OR 1-800-381-8898

www.legalaidsmc.org

or

www.landlordtenantinfo.org

This pamphlet provides general information on the law, which may change. If you have a specific legal problem, you may wish to see a lawyer.

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LEGAL AID SOCIETY
of San Mateo County

THE THIRTY/SIXTY DAY NOTICE

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WHEN CAN MY LANDLORD GIVE ME A 30 or 60-DAY NOTICE TO MOVE?

Month-to-Month Tenancy:

If your written lease is not for a set term (for instance, “one year”) or you have no written rental agreement, the law assumes you have a month-to-month tenancy. To end a month-to-month tenancy (for reasons other than non-payment of rent or breach of lease agreement) the landlord must give you a written 60-day termination notice unless you have lived in the unit for less than one year, in which case the landlord is only required to give you a 30-day notice. If you rent a house not connected to any other dwelling unit and your unit has been sold or is in the process of being sold, your landlord may give you only a 30-day termination notice under certain conditions.

The landlord does not have to give any reason for ending your tenancy and asking you to move. (See the section below on Subsidized Housing for exceptions to this rule).

Fixed Term Leases:

The landlord or his/her agent does not have to give any notice to end a fixed term lease. The lease and your tenancy are considered terminated at the end of the lease period, and you are by law required to move without further notice. For example, in a one year lease when

the tenancy ends, you must move out at the end of the one year period without further notice from the landlord. If the landlord or his/her agent wants to end your tenancy before the end of the lease, he or she must have good cause for breaking the lease agreement. For example, non-payment of rent or substantial breach of the rental agreement are both considered good cause.

Subsidized Housing:

If you are participating in a Federal housing program such as Section 8, or live in Public Housing, additional laws and regulations may protect your rights as a tenant. In San Mateo County, the only city with rent control is East Palo Alto.

For these types of housing, the landlord is usually required to show good faith and have “good cause” or “just cause” to issue a termination or eviction notice. Each type of housing program is governed by its own ordinances and statutes, which list in detail all situations considered “good cause” for eviction. Current law may require a 90-day notice if you are participating in a Federal housing program.

WHAT IF MY LANDLORD ACCEPTS MY RENT PAYMENT AFTER GIVING ME A 30 or 60-DAY NOTICE?

If the landlord or his/her agent accepts

rent covering a period beyond the period of the notice, this may be considered to be a withdrawal or waiver of the notice. If the landlord wants you to move, a new written 30/60-day notice may be required.

HOW MUST MY LANDLORD OR HIS AGENT SERVE THE 30 or 60-DAY NOTICE?

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

1. Personally giving it to the tenant; or
2. Leaving a copy at the tenant’s home with another person and then mailing a copy; or
3. Posting a copy on the property and then mailing a copy.

Be aware that most judges will ignore technical problems with how the notice was actually served, as long as the tenant actually receives the notice.

WHAT IF MY LANDLORD GIVES ME A 30 or 60-DAY NOTICE BECAUSE I COMPLAINED ABOUT SOMETHING?

A landlord may not try to evict you to punish you, or to “retaliate” against you for exercising your legal rights. For example, you have the right to complain to code enforcement or health authorities, exercise rights under rent control ordinances, organize rent strikes, or exercise any other statutory or constitutional right without having the

