

Weekends and holidays are included when counting the 5 days. If you do not file proper papers within the 5 days, a “default” judgment may be entered against you. This means that you lose the case without being able to tell your story in court, and the landlord wins the case.

After the default has been entered, the Sheriff will post a notice to leave within 5 days. If you do not move within the 5 days, the Sheriff will physically evict you and lock the place. If your belongings are locked inside, you will have to pay storage costs to get your property back.



FOR FURTHER INFORMATION AND 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 is designed to provide 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 THREE DAY NOTICE

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WHEN CAN MY LANDLORD GIVE ME A 3-DAY NOTICE TO MOVE?

Notice After Not Paying Rent

If you do not pay rent on time, the landlord can serve you with a 3-day notice to pay the rent owed or to move out. The notice must state only the amount of rent you owe - not additional fees for damages or other costs. This type of notice is called a 3-day notice to “pay or quit.” You must pay the full amount due in 3 days. Attempting to pay later will not necessarily prevent an eviction.

Notice for Failure to Perform Conditions of Lease

If you are accused of violating part of your lease, the landlord may serve a 3-day notice to stop the conduct if it is curable or to move out. This type of notice is called a 3-day notice to “perform covenant or quit.” Here, violation of the lease or rental agreement must be substantial to justify evicting you.

Uncurable 3-Day “Notice to Quit” For Misconduct

A landlord can serve you with a 3-day notice to vacate if you are committing “waste” (wrecking the place), creating

a “nuisance” or using the premises for an illegal purpose. In any of these situations, the landlord is not required to give you a chance to fix or eliminate the problem.

IF I MEET THE REQUIREMENTS IN THE 3-DAY NOTICE, DOES IT KEEP THE LANDLORD FROM GIVING ME A 30-DAY NOTICE TO MOVE?

NO. Compliance with the 3-day notice to pay or to stop certain conduct does not prevent a landlord from serving you with a 30-day notice to move. Even if you fix the problems noted in the 3-day notice, the landlord can still ask you to move within 30 days by giving you a separate written 30-day notice.

Generally, when giving you a 30-day notice, the landlord does not need to state a specific reason for wanting you to move.

IF I RECEIVE A 30-DAY NOTICE TO MOVE, DO I STILL HAVE TO PAY RENT?

YES. If you receive a 30-day notice to move, this does not relieve you of the obligations in your rental agreement. For example, if you owe rent during the 30-notice period, you must pay the rent to avoid receiving a 3-day notice.

HOW MUST MY LANDLORD SERVE THE 3-DAY NOTICE?

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

1. By personally giving it to you, or
2. By leaving a copy of the notice at your home with another person, or
3. By posting a copy of the notice on the property and then mailing a copy to you.

Remember that most judges will ignore any technical problems with how the notice was served, as long as you received the notice. So even if you think the landlord did not serve you properly, do not ignore the notice.

WHAT HAPPENS IF I DON'T COMPLY WITH THE NOTICE?

If you don't comply with the 3-day notice, the landlord may start an Unlawful Detainer action in court on the 4th day after serving you with the notice. An “Unlawful Detainer” action and an eviction lawsuit mean the same thing.

After you get the Complaint (Unlawful Detainer) and Summons, you have 5 calendar days to respond by filing written papers (Answer) with the court.