

Evicting Your Tenant the Right Way

By: Amiel L. Wade of Wade Law Group

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If you are a landlord and have a tenant you need to evict, you must go about it the right way. The manner in which you evict your tenant depends on both the reason why you want to evict the tenant and the circumstances of the tenancy. Ultimately if the tenant refuses to vacate the premises after you have demanded the tenant's departure, you will be forced to take them to court to eventually evict them.

One of the most common reasons why people want to evict their tenants is because the tenant has failed to make timely rental payments. Under these circumstances, the first thing that a landlord must do to start the [eviction process](#) is send the tenant what is called a "three day notice to pay or quit". This is essentially a notice requiring the tenant to pay the past due rent within three days of receiving the notice or if not, vacate the premises. The notice must be prepared in a proper format and inform the tenant of the location at which the tenant may make the required rental payment. If the tenant fails to pay the required rent (in full) within the requisite three day period, the landlord can then initiate what is called an unlawful detainer lawsuit against the tenant.

The unlawful detainer lawsuit is essentially an eviction lawsuit involving the landlord and the tenant. The lawsuit can be a relatively short process. If the tenant is served personally with the eviction lawsuit, the tenant will have just five days to file a response to the lawsuit in court. If the tenant fails to respond, the landlord will then be permitted to obtain a default judgment against the tenant on the six day. Once the default is obtained, the Sheriff will serve the [eviction notice](#) on the tenant and then after five additional days has elapsed, the sheriff will arrive back at the residence and evict the tenant (by locking them out). At that time, the landlord is instructed to have a locksmith present to change the locks so that the tenant cannot return.

If the tenant responds to the lawsuit (and does not default), upon request, the court will set a trial date within 20 days of the request. If the tenant has failed to pay the required rent within the time provided in the three day notice, at the trial (unless there are other valid defenses raised) the landlord will receive a judgment of possession of the premises. Once the judgment is obtained, the landlord will then provide a copy of the judgment to the sheriff who will then eventually evict the tenant.

If you have a tenant that you want to evict who is NOT behind in the rent and there is no written lease requiring you to allow them to stay in the premises, you must provide a thirty (30) day notice specifying the date on which you want the tenant to leave the premises. If you have a tenant with whom you have never discussed a tenancy, you may need to give them sixty (60) days notice.

For more information on [how to evict a tenant](#) in California, contact a professional California Litigation Attorney.

About Wade Law Group

For information on California Business Law, contact a professional [California Business Attorney](#). In the San Jose area or within California, call Amiel Wade at [Wade Law Group](#) at [\(888\) 909-9430](#).