

Unpaid Rent Eviction Guide During COVID Protected and Transition Periods

Rents Due March 1, 2020 – August 31, 2020 (COVID Protected Period)
Rents Due September 1, 2020 – January 31, 2021 (COVID Transition Period)

(See Quick Guide Unpaid Rent Eviction Guide For Pre and Post COVID Periods)

Evictions during COVID-19 protected and transition periods are complex. Consultation with a qualified California landlord tenant attorney is highly advised.

Step 1: Serve Tenant with Notice of California COVID-19 Tenant Relief Act (C.A.R. Form NTRA)(May be combined with 15-day notice but only for rent due in Protected Period and only until 9-30-20).

- A. Service may be made by mail OR must be tried in following order: Personal Service, Substituted Service, Post and Mail.
- B. Need to add 5 days if service by mail, and possibly if other service except personal service.
- C. Service of NTRA must be made by September 30, 2020 as a prerequisite to Unlawful Detainer based on Protected Period unpaid rent.

Step 2: Serve Tenant with 15-Day notice to pay rent or quit.

C.A.R. Form PRQ-CPP for rent due between March 1, 2020 and August 31, 2020. (May be combined with Notice of COVID-19 Tenant Relief Act, C.A.R. Form NTRA but only until 9-30-20)

OR C.A.R. Form PRQ-TP for rent due between September 1, 2020 and January 31, 2021

OR Both if landlord is claiming rent covering both periods.

- A. Service must be by tried in following order: Personal Service, Substituted Service, Post and Mail.
- B. PRQ-CPP and PRQ-TP shall include amount and dates of unpaid rent due (C.A.R form CURC, which must be completed) AND unsigned copy of tenant declaration of financial distress (C.A.R. form TDFD).
- C. PRQ-CPP and PRQ-TP shall include statutory notice regarding tenant's rights under the new law.
- D. PRQ-CPP and PRQ-TP to include statement re: proof of financial distress if Landlord knows tenant is "high income".

Step 3: Wait 15 days after service, excluding Saturdays, Sundays, and Judicial Holidays. May need to add 5 days if service by any method other than personal service.

Step 4: If Tenant signs and delivers back declaration of financial distress, do not proceed with eviction.*

- A. Starting March 1, 2021, Landlord may sue tenant in small claims court regardless of the amount due.**
- B. If Tenant does not sign and deliver back declaration of financial distress, Landlord may proceed to Step 5.
- C. If landlord asserts in the 15-day notice that tenant is a high income tenant, then tenant shall also provide documentation supporting any claim of financial distress along with the return of signed TDFD. If a high-income tenant fails to provide documentation supporting the financial distress claim, Landlord may proceed to Step 5.

*For COVID transition period, tenant must also agree to pay 25% of rent due by January 31, 2021.

**If local government entity provides for repayment terms, lawsuit for unpaid rent may not commence until local repayment term has expired or tenant fails to comply with such terms.

Step 5: File Unlawful Detainer lawsuit seeking possession only. No right to ask for unpaid rent as damages.

Starting March 1, 2021, Landlord may sue tenant in small claims court regardless of the amount due.

Step 6: Serve Tenant with copy of Complaint.

Step 7: Tenant given an opportunity to answer Complaint

- A. Tenant may ask Court for hearing that Tenant's failure to sign and deliver copy of declaration of financial distress was due to mistake, inadvertence, surprise, or excusable neglect.
- B. If Tenant asks Court for hearing on tenant's failure to sign and deliver a declaration of financial distress, court sets a hearing date for that issue only.
- C. If tenant is successful in hearing on declaration, no eviction is permitted. If tenant's failure is not excused by court, then process continues.

Step 8: If tenant does not answer Complaint, court sets a default hearing date. If tenant answers complaint, court sets a trial date.

Step 9: If Tenant successful, the lawsuit is dismissed. If Landlord successful, obtain a judgment and a writ of possession and submit to Sheriff.

Step 10: Sheriff sets possession (lock-out) date. Service required on tenant (posted on property).

Step 11: Sheriff delivers possession to Landlord.

Notes:

1. Anytime during process, landlord and tenant may enter into a mutual agreement to terminate the tenancy and give possession back to the landlord (C.A.R. form CRFP).
 - A. Form CRFP provides for landlord to give up right to all or portion of unpaid rent in exchange for possession.
 - B. If tenant does not vacate on time, landlord may have right to evict pursuant to at-fault just cause reason.
2. If at any time during the process, and before tenant is removed from premises, tenant gives landlord a signed federal declaration of inability to pay rent for COVID-related reasons (C.A.R. form CDC-TD), tenant may not be evicted until January 1, 2021. Only applies if tenant's income does not exceed \$99,000.
3. If at any time during the process, or before, landlord and tenant agree to a repayment plan for previously unpaid rent, landlord and tenant may enter into an agreement to document the pay-back period and terms (C.A.R. form CRRA).
 - A. Many local government entities have enacted laws addressing repayment rights. Repayment agreement must be consistent with local requirements.
 - B. Local government requirements cannot allow tenant to begin paying back rent after March 1, 2021 nor allow tenant to complete payment of unpaid beyond March 1, 2022.