

Q&A FOR LOW-INCOME LANDLORDS



How do I evict my tenant?

Give your tenant notice. Usually, it's a 3-, 30- or 60-day notice. Notice is very important, and you must do it right. If your tenant does not do what the notice asks by the deadline in the notice, file an Unlawful Detainer. Seek assistance from a lawyer if you need it.

How do I start an Unlawful Detainer case?

File a Summons and Complaint in the clerk's office of the Superior Court. Serve the tenant with a copy of the Summons and Complaint. File your Proof of Service.

Is there a fee?

Yes, but if you cannot afford to pay the fee, ask for a Fee Waiver. To do this, file an Application for Waiver of Court Fees and Costs when you file your Summons and Complaint.

How long does the tenant have to respond?

If the tenant was served in person, the tenant has 5 days to file a response. If the tenant does not respond in time, ask the court for an order in your favor. This is called a "default judgment." There are several documents you need to file to do this. Ask a lawyer if you need help.

If the tenant responds, he or she can file an Answer, a Demurrer, or some other kind of motion. The tenant will serve you a copy of anything he or she files. If you do not receive a copy of your tenant's Answer, check the Records Management office at the courthouse to see if one was filed anyway before you request a default judgment or request a trial date. Usually, the tenant will file an Answer. As soon as you are served with the Answer, file a Memorandum to Set for Trial. Your trial will take place in about 20 days. In about a week, the court clerk will mail a notice to you and the tenant with the date, time, and place of trial.

If your tenant files anything other than an Answer, ask a lawyer for help.

Will there be a jury trial?

Either you or the tenant can ask for a jury trial. This means a jury, not a judge, will make the decision. To ask for a jury trial, you must file a request at the clerk's office. There may be reasons to prefer one over the other, and the landlord should discuss his or her particular situation with an attorney. A jury trial requires a fee deposit (unless you have a fee waiver), but a non-jury trial does not.

How do I get ready for trial?

Get all the information related to your case, like witnesses or documents that support the eviction. Bring 3 copies of all your papers. If a witness refuses to come to court, you can subpoena them, which means the court may punish the person if they do not appear.

What happens if I win? (The Eviction)

The court will give you a Judgement of Possession. This gives you back possession of your property. You'll need to get a Writ of Execution, which allows the Sheriff to evict, to remove and lock the tenant out of the property. The Sheriff will serve the tenant with a Notice to Vacate the property, giving the tenant 5 days to move. If the tenant doesn't move, the Sheriff will remove and lock out the tenant. The tenant may ask for a Stay of Execution. If the judge approves, it will stop or delay the eviction. Usually, it will give the tenant more time to move out, usually about 10 days. The tenant will have to pay rent for that extra 10 days. The tenant can appeal or file a motion to set aside (cancel) the judgment. This will not stop the eviction. The only way to stop or delay an eviction is to ask for a Stay of Execution.

What if I lose?

If there is a problem with your notice or other issue with your paperwork, your complaint (lawsuit) may be dismissed, meaning you have to start over. If you have a trial, and the court enters a judgment in favor of your tenant, your tenant has the right to remain in the

rental unit and pay rent. Sometimes, depending on the circumstances, additional conditions may be placed on the judgment, such as allowing the tenant to pay lower rent until repairs on the rental unit are complete. If a tenant still does not pay rent, you may be able to sue them again. If the tenant wins at trial, they may sue you for 'unlawful eviction.' If your property is insured, the insurer may cover the cost of defending the lawsuit.

Should I be prepared to settle?

The court expects most cases to be resolved by mutual agreement (settlement) before they actually start a trial, so be prepared to talk with your tenant about what terms they might accept in exchange to move out. This includes the date they move out, how much money they may still owe, or other factors unique to your case. If the tenant does not move out by the date that they agree to in the settlement, you can ask the court for a judgment, as though you won a trial.

What if I don't speak English well? What if I'm deaf?

The court does not have interpreters for unlawful detainer cases. If you do not speak and understand English, bring an adult who can interpret for you. Or, you can hire your own interpreter. The court does provide sign language interpreters. You can ask the court for a sign language interpreter if you are hearing impaired.

Where can I find the forms I need?

Go to the Clerk's office, Superior Court Help Center, Wiley W. Manuel Courthouse, 661 Washington Street, 2nd Floor, Oakland. You can also visit www.courtinfo.ca.gov/forms.

How do I attend the Landlord Clinic?

To attend the clinic, please call the VLSC intake line at (510) 302-2222 and press option 4. Intake lines are open Monday through Friday from 8:30 a.m. to 4:30 p.m.

Low-income landlords have eviction rights, too!

There are numerous groups in Alameda County that assist tenants with eviction matters, but the Low-Income Landlord Eviction Assistance Clinic (Landlord Clinic) is the only free legal clinic in Alameda County dedicated solely to landlords. The Landlord Clinic is administered by the Alameda County Bar Association Volunteer Legal Services Corporation (VLSC) and staffed by volunteer attorneys.



Am I a landlord?

You do not need to own apartment buildings or several houses to be a landlord and have rights. If you own a house and share it with another person, or if you are a tenant yourself and invited someone else to move in with you, you might be a landlord. Examples of "landlords" whom we can help include:

- A parent with a family member who doesn't pay rent;
- A senior citizen who has an abusive family member living with them;
- A property owner with a lodger engaged in criminal activity;
- A homeowner who invited a homeless person to stay temporarily and now won't leave;
- A "master" tenant with subtenants.

How can the Low-Income Landlord Eviction Assistance Clinic help me?

VLSC's Landlord Clinic can help by providing step-by-step instructions by trained volunteers on how to evict a tenant. We will discuss your situation and advise you of your legal rights, including whether or not eviction is the proper next step. If eviction is the next step, we will help you complete the appropriate forms. We do not become your attorney or go to court with you. We can help whether you have already begun the eviction process, have received a judgment and want to take the next step, or don't know if you even want to evict your tenant. If we are not able to fully assist you in the clinic, VLSC may be able to refer you to a pro bono attorney for representation. Assistance is available in additional languages upon request.

About the Volunteer Legal Services Corporation

The Alameda County Bar Association Volunteer Legal Services Corporation (VLSC) provides free direct legal assistance to Alameda County's low-income population by mobilizing volunteer attorneys to provide pro bono service. We believe no member of our community should be denied access to the justice system or related services because they cannot afford representation. For more information on the Low-Income Landlord Eviction Assistance Clinic please call the VLSC intake line at (510) 302-2222 and press option 4.

*"Injustice
anywhere is a
threat to justice
everywhere."*

-Dr. Martin Luther King, Jr.



VOLUNTEER LEGAL
SERVICES CORPORATION

LOW-INCOME LANDLORD EVICTION ASSISTANCE CLINIC



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