

CITY OF FRESNO

EVICITION PROTECTION PROGRAM

FREQUENTLY ASKED QUESTIONS: THE EVICTION PROCESS

What is an “unlawful detainer”?

An unlawful detainer action is the formal name for an eviction proceeding which is filed with the court.

If your landlord serves you with a lawful notice but you remain in the property when the notice period expires (or do not comply with the notice—such as a notice to perform covenant(s) or quit), your landlord may file an eviction lawsuit against you.

When is an unlawful detainer illegal?

In California, it is illegal to evict a tenant in retaliation because that tenant exercised legal rights or based on the tenant’s membership in a protected class. Examples of illegal reasons to evict a tenant include:

- retaliation for reporting code enforcement violations;
- habitability related concerns with the home;
- failure to pay rent due to COVID-19 income loss, discrimination (based on membership in a protected class—race, disability, age, sexual orientation, sex, gender, etc.), harassment, illegal rent increases;
- failure to properly serve notice paperwork to tenant prior to filling of unlawful detainer;
- improper notice forming the basis of the unlawful detainer (e.g., not enough notice, not the correct notice, improper reason for eviction, notice doesn’t meet statutory requirements, tenant paid full rent (with proof) and landlord saying rent is unpaid etc.);
- landlord has engaged in unlawful self-help remedies (e.g., changing the locks, shutting off utilities) and not through the eviction process with a sheriff lockout;
- unlawful late fees;
- eviction stemming from the tenant being a victim of domestic violence, sexual assault, human trafficking, or abuse of elder/dependent adults.

Importantly, not having another place to move to or not wanting to leave your home does not make the eviction unlawful.

What should I do if I am served with an unlawful detainer complaint?

Your landlord must file an unlawful detainer complaint in Superior Court to start the eviction process. The complaint states the facts that justify eviction and asks the court to enter a judgment against you for unpaid rent as well as costs & fees.

Along with the complaint, your landlord must also serve you with a summons. The summons is a court notice that states your right to file a written response and explains where you should send your response. You have **five days** to respond to the complaint.

When counting days, include Saturday and Sunday. If the fifth day falls on either Saturday or Sunday, you may file a response on Monday. Given the short timeline it is really important that you seek help as soon as possible.

You can file either a Motion to Quash, a Demurrer, or an Answer. You should consult an attorney regarding the best way to respond. After you file an Answer, the case is generally set for trial within twenty days.

Can an Eviction Protection Program (EPP) lawyer represent me in the pre-eviction and eviction process? Yes, if you meet eligibility requirements for the program and remain responsive and available to your attorney throughout the process.

What if I lose at trial?

If you lose at trial, your landlord will be entitled to regain possession of the premises. Your landlord will give a “writ of possession” to the sheriff’s department. A sheriff will then serve the notice on you, giving you five days to vacate. If you have not moved by the end of the five-day period, the sheriff will require that you leave the premises and will change the locks.

What options are there other than going to trial? You may be able to negotiate a settlement agreement. Settlement agreements may allow you to remain in your home, may give you more time to pay rent, or may give you more time to get your affairs in order to move out and find another place to live. Settlement agreements may also prevent you from having an eviction on your record if you lose at trial.

What is “cash for keys”?

An agreement between the landlord and the tenant in which the tenant moves out of the property in exchange for the landlord providing a cash incentive for the tenant to do so. The landlord is never required to provide “cash for keys”—this is simply an option that tenants can negotiate with their landlords.

What should I do if I believe the reason my landlord is evicting me is based on discrimination or because I reported to Code Enforcement?

If you believe your landlord is wrongfully trying to evict you because you reported to Code Enforcement, or because of your race, color, national origin, sex, gender, transgender status, sexual orientation, religion, familial status, disability, marital status, ancestry, age, or source of income, you should contact the Eviction Protection Program at www.fresno.gov/epp or (559) 621-8400 to see if you qualify for representation by a housing attorney.

Is there rental assistance available?

Yes, for more information visit www.fresno.gov/mayor/erap/.

What if my inability to pay rent is due to Covid-19?

If you have experienced COVID-19-related financial distress and have not been able to pay part or all of your rent between March 1, 2020, and September 30, 2021, you cannot be evicted for failure to pay rent so long as certain notice and procedural requirements are met. For more information, you should contact the Eviction Protection Program at www.fresno.gov/epp or (559) 621-8400.

What is Covid-19 Related Financial Distress?

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to the health impact of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit a tenant's ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced a tenant's income or increased a tenant's expenses.

Do I still owe rent even after signing a Declaration of Covid-19 related financial distress?

Yes, you will still owe any unpaid rent to your landlord. The Covid-19 protections for tenants only prevent the landlord from proceeding with an eviction.

Disclaimer: The purpose of this FAQ is educational only and does not constitute legal advice. If you need legal advice, you should contact an attorney or apply for representation through the City of Fresno's Eviction Protection Program at www.fresno.gov/epp or (559) 621-8400.