

Beginning **November 1, 2021**, a landlord has the option to bring an action in small claims court to recover COVID-19 rental debt that is more than the normal limits for small claims actions. The purpose of bringing these claims in small claims court is to resolve disputes about COVID-19 rental debt. The small claims court **cannot** determine possession of residential property or evict a tenant from property.

### What is COVID-19 rental debt?

COVID-19 rental debt means any unpaid rent or any other money owed under a residential lease or residential rental agreement (for example, parking fees or utility payments) that came due between **March 1, 2020, and September 30, 2021**.

### What is small claims court?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. You may ask a lawyer for advice before you go to court, but you cannot have a lawyer in court.

### Who are the parties in a small claims case?

- The person who sues is the plaintiff, the **landlord** in these cases. If the landlord is a business, an employee such as a property manager may go to a small claims trial for the landlord (use form
- The person who is sued is the defendant, the **tenant** in these cases. There may be more than one tenant paying rent for a single residence. The landlord may want to name all tenants as defendants.

### How does a COVID-19 rental debt case start in the small claims court?

The landlord must:

- Complete and file form
- Attach documentation showing the landlord's good-faith efforts to seek rental assistance (examples of documentation include emails, texts, and notes from phone calls); and
- Serve the form on the tenants (see form

### How does a tenant respond?

A tenant does not need to file any papers before the trial date. Tenants should go to court on the day of trial with evidence about the amount of COVID-19 rental debt owed, if any.

### What should tenant take to small claims court for a COVID-19 rental debt case?

Both the landlord and the tenant in a small claims action for COVID-19 rental debt can present arguments and evidence about how much money they believe is owed, how much has already been paid, and other factors that can affect the amount of COVID-19 rental debt that must be paid.

The parties should bring the rental agreement, any rental receipts, and any other receipts or other documents that show the following:

- The **amounts** of COVID-19 rental debt owed and the **dates** on which each amount came due. Remember that COVID-19 rental debt means rent and other financial obligations that came due between **March 1, 2020, and September 30, 2021**.
- Any amounts that the tenant **paid** toward the rent or other financial obligations and the **dates of payment**.
- Any other amounts of rent or other obligations that were paid through rental assistance programs or other third parties on behalf of the tenant.
- Any evidence of conditions affecting the residence, such as items needing repair.
- Any evidence to support arguments made to determine the amount of money owed.

Page 2 of this information sheet provides a list of some of the arguments that landlords and tenants can make to help the court determine the amount of COVID-19 rental debt that is owed.

### Can you bring a witness to small claims court?

Both the landlord and the tenant may bring witnesses to the trial who can tell the court what they know about the COVID-19 rental debt, the condition of the home, and agreements between the landlord and the tenant about the need for repairs and payment for repairs.

### **What arguments can you make?**

The landlord and tenant may disagree about the amount of rent that is owed for various reasons. Read more about these reasons in the California Department of Real Estate's guide at [in the](#) [and](#) [sections](#). Below are questions that can help you identify the issues that may exist in the case and may affect the amount of rent owed.

Please note: This list does not include every possible argument. Other laws, including local ordinances, may affect the rights of landlords and tenants in COVID-19 rental debt cases.

- Did landlord make a good-faith effort to:
  - Investigate whether governmental rental assistance is available to the tenant;
  - Seek governmental rental assistance for the tenant; or
  - Cooperate with the tenant's efforts to obtain rental assistance from any governmental entity or other third party under Civil Code section 1947.3(a)(3)?
- Is there any pending application for rental assistance or other financial compensation from any other source corresponding to the amount claimed?
- Did landlord receive rental assistance or other financial compensation from any other source corresponding to the amount claimed?
- Did landlord improperly apply payments to past-due rent without the tenant's written agreement?
- Does the amount claimed include service fees that were increased or not previously charged?
- Does the amount claimed include late fees on rent or other financial obligations?
- Did landlord improperly raise the rent?
- Did tenant or a third party offer a rental payment that landlord would not accept?
- If the lease or rental agreement was terminated, was the security deposit returned? Read more about the rules for security deposits at [in the](#) [and](#) [sections](#).
- Did tenant make needed repairs and properly deduct the cost from the rent? If so, did landlord give proper credit?
- Did landlord fail to provide habitable premises? This means that if the housing did not meet certain standards, the amount owed may be reduced.

Note: It is illegal for a landlord to retaliate against a tenant for raising any of the above issues or any of the defenses listed on form [SC-500](#).

### **Can a tenant file a claim in the landlord's case?**

A tenant who is a defendant in a COVID-19 rental debt case may bring a claim against the landlord in the same case using form [SC-500](#).

### **What if you disagree with the court's decision?**

If you are a tenant, you may appeal the decision on a claim filed against you. More information about appeals is available in the information at the end of [form SC-500](#) and at [in the](#) [and](#) [sections](#).

If you are the landlord, you cannot appeal a small claims decision on a claim you filed. (Note that a landlord has the option of filing a COVID-19 rental debt recovery case in general civil court [use form [SC-500](#)].)

In general civil court, all parties may appeal the court's decision and all parties may be represented by lawyers.)

### **How much does it cost to file a case in small claims court?**

The amount the court charges a landlord to file a case in small claims court depends on the amount demanded and how many cases are brought by the landlord in a single year. The filing fees for small claims cases are listed on the Statewide Civil Fee Schedule, available at [in the](#) [and](#) [sections](#). There is no fee for the tenant to go to the hearing.

### What if you cannot afford the filing fee?

If you want to sue someone in small claims court and cannot afford to pay court fees and costs, you may not have to pay. The court may waive all or part of those fees **if you:**

Are getting public benefits; **or**

- Are a person with very low income; **or**
- Do not have enough income to pay for your household's basic needs and your court fees.

To ask the court to waive your fees in small claims court, complete form

File your request with the court.

### Where can you get help with a small claims case?

- **Small Claims Advisors.** Every county has a Small Claims Advisor who is available to help you with your small claims case. These services are free. To find the Small Claims Advisor in your county, go to
- **Forms and online help.** You can find small claims forms and more information about small claims court at the California Courts Online Self-Help Center. You can also get forms and help at your county law library or the courthouse nearest you.
- **Local court websites.** Your local court may have additional information and help for your small claims matter. Visit your court's website for current information on small claims hearing procedures. For help finding your court, visit
- **Legal services organizations.** Local organizations may be able to assist parties in preparing for court. Parties may be able to find a legal service organization that serves their area at
- **Lawyers.** Both parties may ask a lawyer about the case, but a lawyer may not represent either party in court at the small claims trial. Generally, after judgment and on appeal, both parties may be represented by lawyers.

### What help is available when you go to court?

- **Accommodations for disability.** If you have a disability and need an accommodation while you are at court:
  - You can use form , to tell the court about your needs.
  - For more information about making a disability accommodation request, see form
- Remember to submit your request to the ADA Coordinator or designated person in your court.
- Visit your court's website to find the ADA Coordinator or designated person. For help finding your court, go to
- **Interpreters.** If you do not speak English well:
  - Ask the court clerk as soon as possible for a court-provided interpreter.
  - You may use form , or a local court form to request an interpreter.
  - If no court interpreter is available at the time of your trial, it may be necessary to reschedule your trial.
  - You cannot bring your own interpreter for the trial unless the interpreter has been approved by the court as a certified, registered, or provisionally qualified interpreter. See Cal. Rules of Court, rule 2.893, and form

### Who can look at your case file?

If you are sued in small claims court for nonpayment of COVID-19 rental debt, only the following people may see the case file:

- The parties (landlords and tenants).
- A person who gives the court clerk the name of at least one landlord and one tenant.
- A person who lives in the residence for which COVID-19 rental debt is owed who shows proof of residency and gives the clerk the case number or the name of one of the parties.
- A person who gets an order from the court after showing that they have good cause to see the case file.