

TENANT CHECKLIST

Your rights and responsibilities under state law in eviction matters beginning October 5, 2020



Note: You may have additional rights under other laws:

- The Centers for Disease Control and Prevention have issued a *Temporary Halt in Evictions to Prevent Further Spread of COVID-19* (85 Federal Register 55292).
- Your city or county may have a local ordinance with protections for renters during the COVID-19 pandemic.
- If you live on property that has a federally backed multifamily mortgage for which forbearance has been granted under 15 U.S.C. section 9057, you have additional protections.

Please consult an attorney, legal aid office or court self-help center for additional information about your rights and responsibilities under federal, state and local laws.



If you received an eviction notice that **expired on or before February 29, 2020**:

- Beginning on October 5, 2020, you may be served with a complaint for unlawful detainer for failure to pay rent or for any other reason allowed under law.
- You will have **five days** to file an Answer to a complaint for unlawful detainer.

What does “expired” mean? If you received a “three-day notice to quit” on February 1, the notice **expires** three days later, not counting Saturday, Sunday, or judicial holidays.



If you receive a 15-day notice to pay rent or other money required under the rental agreement, quit (leave the home), or provide a declaration because of **COVID-19 rental debt** that you failed to pay between March 1, 2020 and August 31, 2020:

- The notice should include a Notice from the State of California about your rights and responsibilities and an unsigned declaration of COVID-19-related financial distress.
- If you did not pay rent between March 1, 2020 and August 31, 2020 because you were experiencing COVID-19-related financial distress, you may deliver to your landlord a signed declaration of COVID-19-related financial distress.
- You must deliver the declaration before the expiration of the notice, which is 15 days after it was served on you (not counting Saturdays, Sundays or judicial holidays).
- Delivering the declaration means that you either give it to the landlord in person (if the notice provides an address for personal delivery), by email (if the notice provides an email where it can be delivered), by mail, or any way that you usually pay the rent.

- If you deliver a declaration of COVID-19-related financial distress to the landlord before the 15-day notice expires, the rent that you owe becomes a debt and you cannot be evicted because you did not pay it. The landlord can sue you to collect the debt.

What is “COVID-19 rental debt”? “COVID-19 rental debt” means unpaid rent or any other money you might owe under the lease, such as parking fees, that came due between March 1, 2020 and January 31, 2021.



If you receive a 15-day notice to pay rent, quit (leave the home), or provide a declaration because of **COVID-19 rental debt** that you failed to pay between September 1, 2020 and January 31, 2021:

- The notice should include a “Notice from the State of California” about your rights and responsibilities and an unsigned declaration of COVID-19-related financial distress.
- If you do not pay rent between September 1, 2020 and January 31, 2021 because you are experiencing COVID-19-related financial distress, you may deliver to your landlord a signed declaration of COVID-19-related financial distress.
- You must deliver the declaration before the expiration of the notice, which is 15 days after it was served on you (not counting Saturdays, Sundays or judicial holidays). (Note: you may receive a 15-day notice and blank declaration each month. You must deliver a new declaration each time you get a 15-day notice if you remain unable to pay.)
- Delivering the declaration means that you either give it to the landlord in person (if the notice provides an address for personal delivery), by email (if the notice provides an email where it can be delivered), by mail, or any way that you usually pay the rent.
- If you deliver a declaration of COVID-19-related financial distress to your landlord before the 15-day notice expires **AND** you pay 25% of the amounts you owe by January 31, 2021, you cannot be evicted because of failure to pay the rest. The rest becomes a debt that the landlord can sue you to collect.



If you are served with a Complaint for Unlawful Detainer that includes an allegation that you failed to pay **COVID-19 rental debt** between March 1, 2020 and January 31, 2021:

- You may file a declaration of COVID-19-related financial distress with the court within **five days** of being served with the Complaint if you had good reason for not providing it earlier. You may use the UD-104 *Cover Sheet for Declaration of COVID-19-Related Financial Distress* to file the declaration you received from your landlord. If you do not have that, you may use form UD-104(A) *Attachment—Declaration of COVID-19-Related Financial Distress* for this purpose.

- If you sign a declaration in another language, you must file **BOTH** the signed declaration and an English translation of the declaration to the court. You may use a translation available here: <https://landlordtenant.dre.ca.gov/tenant/forms.html>, or you may obtain your own translation, signed by a translator..
- If you file a declaration of COVID-19-related financial distress within five days of being served with the Complaint, the court will schedule a hearing to determine whether your failure to deliver the declaration to the landlord within 15 days of the notice was the result of mistake, inadvertence, surprise, or excusable neglect.
- After the hearing, if the court finds that failure to deliver the declaration was due to mistake, inadvertence, surprise or excusable neglect, the court will dismiss the case. If not, the case will proceed and, if you filed an Answer, a trial will be set. If you did not file an Answer, the court may issue a judgment against you.
- **Note:** filing a declaration of COVID-19-related financial distress with the court is not a substitute for filing an Answer to the Complaint for Unlawful Detainer. You have **five days** to file an Answer from the date you are served with a Complaint for Unlawful Detainer.



Between October 5, 2020 and January 31, 2021, **you may be evicted** for the following reasons:

- You were served with a notice to quit that expired on or before February 29, 2020.
- You failed to pay rent between March 1, 2020 and January 31, 2021 and:
 - You received a 15-day notice that included a Notice from the State of California and an unsigned declaration; **AND**
 - You failed to deliver a signed declaration to the landlord before the 15 days expired; **AND**
 - You failed to file a signed declaration of COVID-19-related financial distress with the court within five days of being served with the Complaint; **OR**
 - You filed a signed declaration of COVID-19-related financial distress within five days of being served with the Complaint; however, after a noticed hearing, **the court did not find** that your failure to deliver the declaration to the landlord within 15 days was due to mistake, inadvertence, surprise or excusable neglect.
- You are found guilty of unlawful detainer based on an “at-fault” just cause reason, including breaking a term of the lease, nuisance, and criminal activity.
- You are found guilty of unlawful detainer based on a “no-fault” just cause reason, including if the landlord needs to terminate the lease based on a local public health and safety laws.



You may be sued for **COVID-19 rental debt**:

If you deliver the declarations of COVID-19 related financial distress to your landlord on time, you will be protected from being evicted for failure to pay rent. However, you still owe COVID-19 rental debt to your landlord.

- Beginning on March 1, 2021, your landlord may sue you for amounts that exceed the normal limits in small claims court.
- In some cases, your landlord may sue you in small claims court before March 1, 2021 if the amount is under \$5,000 (if your landlord is a business) or \$10,000 (if your landlord is an individual person) and they obey the limits on the number of small claims cases they can bring in a year. The judge will decide whether they can sue you in small claims court before March 1, 2021.
- The law does not prohibit your landlord from suing you in civil court at any time.



Retaliation is prohibited

If you owe COVID-19 rental debt and you believe your landlord is trying to **retaliate** for that by evicting you for something other than your failure to pay COVID-19 rental debt, the court may find that the landlord was acting **in retaliation** because you owe COVID-19 rental debt.

- If you believe your landlord is evicting you in retaliation for owing COVID-19 rental debt by evicting you for another reason, you may raise retaliation as an “affirmative defense” in your [Answer](#) to the court.
- If the notice and complaint you received from the landlord states a reason other than the nonpayment of COVID-19 rental debt, you may argue that this is not the true reason for the eviction. If make this argument, the landlord must bring evidence to trial to show that the notice and complaint were made in good faith for the reasons stated.

What is an “**affirmative defense**”? An affirmative defense is an argument that you can make in your [Answer](#) to explain to the court why you should not be evicted even if the statements plaintiff made in the complaint are correct.

If you believe the landlord is retaliating against you, you may also file a separate claim against the landlord for retaliation and ask for damages, including punitive damages of up to \$2000 for each act of retaliation, if they claim you are guilty of fraud, oppression, or malice. **Note:** You cannot bring this as part of the unlawful detainer action. It must be separate.

In addition, a landlord cannot try to force you to leave outside of the court process, by doing things like locking you out, cutting off utilities, or removing doors or windows. If your landlord does these things to try to force you to leave outside of the court process,

and you have provided the landlord a declaration of COVID-19-related financial distress, you may ask the court to order the landlord to pay you damages of \$1,000-\$2,500.



Providing information to the court

If you are served with a Summons and Complaint for Unlawful Detainer, you have **five days** to file your Answer with the court. There are new questions on the UD-105 Answer form that you can use to tell the court what happened in your case:

- Item 2: This is where you will agree or disagree with everything in the landlord's Complaint and in form UD-101. Follow the instructions carefully to make sure you write down every paragraph or item number on the complaint and the UD-101 that contains a statement that you believe is either FALSE, or that you don't have information or belief about, so you DENY it. If you leave out any paragraph or item number from the complaint, you are telling the court that you AGREE with it.
- Item 3/: This is where you can tell the court that you believe that the landlord is retaliating against you because you have COVID-19 rental debt, even though the eviction notice is for something else.
- Item 3m.
 - Check (1) if the landlord failed to give you the required 15-day notice.
 - Check (2) if the landlord did not provide you with an unsigned version of the declaration of COVID-19-related financial distress.
 - Check (3) if the landlord identified you as a "high-income" tenant in the 15-day notice, but did not have proof of your income establishing that at the time the notice was served.
 - Check (4)(a) if you delivered a declaration of COVID-19-related financial distress to your landlord and describe when and how it was delivered.
 - Check (4)(b) if you provided your landlord a declaration under the CDC Eviction Moratorium and describe when and how it was provided.
 - Check (5) if you are filing a declaration of COVID-19-related financial distress with the court with your Answer, or if you have already filed one with the court. Note: You can use the UD-104(A) as your declaration of COVID-19-related financial distress and you must put a cover sheet on it with your case number and the names of the parties for filing. You can use the UD-104 as a cover sheet.
 - Check (6)(a) if the property where you live is covered by the CARES Act and you believe the landlord violated the CARES Act because the federally-backed mortgage on the property was in forbearance when the landlord filed the complaint.
 - Check (6)(b) if the property where you live is covered by the CARES Act and you believe the landlord violated the CARES Act by not giving you the required 30 days' notice.
 - Check (7) if you believe that the landlord violated state, federal or local laws in some other way. You will need to briefly state the facts describing the violation in Item o.

Please consult an attorney, legal aid office or court self-help center for additional information about your rights and responsibilities under federal, state and local laws.

Looking for legal help?

[Lawyers and Legal Help](#)

[LawHelp California](#)

[Tenant and Landlord Resources](#)