



FARMWORKER HOUSING RIGHTS

Sobrato Center for Nonprofits
330 Twin Dolphin Drive, Suite 123
Redwood City, CA 94065
(650) 558-0915, Housing Intake Line 650-517-8911

Agenda



- Types of Employer provided housing
- The eviction process
- Repairs and conditions
- Retaliation and illegal evictions

EMPLOYER PROVIDED HOUSING



Types of housing

“Employee” = The boss provides you with housing as part of the compensation for your work, free of any additional charge.

“Tenant” = Your boss provides your housing but you pay the rent, even if it is deducted from your salary.

- If rent is deducted from your paycheck, it must be voluntary and there must be a written agreement.

“Boss” = employer who is also your landlord

**We are using these terms for the purpose of this presentation.

When your boss is also your landlord

- **The boss MUST follow the legal process in order to evict you.**
 - ▣ They can ask you to leave but only the Sheriff can force you out with a Court order.
 - ▣ It is illegal for the landlord to kick you out and change the locks on their own.
- **RARE EXCEPTIONS** – when you are a “lodger” who lives in the boss’ house with them

Basic Rights for Workers

- ❑ Right to a minimum wage.
- ❑ Right to paystubs even if you are paid in cash.
- ❑ Right to be free from retaliation.
- ❑ Paycheck deductions have to be voluntary and agreed to in writing

Labor Commissioner - 833-LCO-INFO (833-526-4636)

224 Airport Parkway, Suite 300, San Jose, CA 95110 (408) 277-1266

Legal Aid At Work - (415) 404-9093 or 866-864-8208 (toll-free)

Employees and Evictions

- ❑ The boss MUST still follow the legal process to evict you even if you do not pay rent.
- ❑ But, they do not need to give you a written notice to start an eviction case once your job has been terminated.

Example 1

- ❑ Do you need to leave tomorrow?

NO

- ❑ Can the landlord change the locks on their own?

NO

- ❑ What happens if you are still living there after Friday?

The boss must file a legal case and serve you

Tenants and Evictions

- ❑ If you pay rent to your boss, you have the same rights as any tenant to the eviction court process.
 - ❑ Advanced notice to move
 - ❑ Just Cause (if the TPA applies)
 - ❑ Does not require a lease in writing
- ❑ Timing of notice
 - ❑ 3, 30, or 60 days

EVICTIIONS



Evictions Always Involve Court

- ❑ “Self help” evictions by landlords are almost always illegal.
- ❑ Landlords cannot lock out tenants; They MUST obtain a court order and ask the SMC Sheriff to carry out the eviction.
- ❑ The Sheriff will post a notice indicating what day the eviction will take place.

Eviction is a 2 Step Process



- Step 1: Notice that your tenancy has ended
- Step 2: Court case – the landlord or their lawyer files an eviction case, known as an “Unlawful Detainer” to start the legal process

Step 1 – The Notice



NOTICE OF TERMINATION OF TENANCY (C.A.R. Form NTT, Revised 11/12)

To: _____ ("Tenant")
and any other occupant(s) in possession of the premises located at: (Street Address) _____
(City) _____ (State) _____ (Zip Code) _____ ("Premises").
(Unit/Apartment #) _____

Your name

CHECK THE BOX THAT APPLIES. CHECK ONE BOX ONLY.

1. The tenancy, if any, in the Premises is terminated 60 days from service of this Notice, or on _____ (whichever is later).
- OR 2. You have, or another tenant or resident has, resided in the Premises for less than one year. Your tenancy, if any, in the Premises is terminated 30 days from service of this Notice, or on _____ (whichever is later).
- OR 3. All of the following apply. Your tenancy, if any, in the Premises is terminated 30 days from service of this Notice, or on _____ (whichever is later).
- A. Landlord has entered into a contract to sell the Premises to a natural person(s);
 - AND B. Purchaser intends to reside in the Premises for at least one year following the termination of the tenancy in the Premises;
 - AND C. Landlord has established an escrow with an escrow company licensed by the Department of Corporations, Department of Insurance or a licensed Real Estate Broker;
 - AND D. Escrow was opened 120 or fewer days prior to the delivery of this Notice;
 - AND E. Title to the Premises is separately alienable from any other dwelling unit (i.e., it is a single-family unit or condominium);
 - AND F. Tenant has not previously been given a notice of termination of tenancy.
- OR 4. Tenant is a beneficiary of, and the tenancy is subject to, a government agency rental housing assistant program. The tenancy, if any, in the premises is terminated 90 days from service of this notice or on _____ (whichever is later).

Your address

Deadline to move

If you fail to give up possession by the specified date, a legal action will be filed seeking possession and damages that could result in a judgment being awarded against you.

“Legal action will be taken if you don’t move out on time”

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NTT REVISED 11/12 (PAGE 1 OF 2)

Reviewed by _____ Date _____



NOTICE OF TERMINATION OF TENANCY (NTT PAGE 1 OF 2)
22nd, 2nd - REALTOR®, 49 West 7th Street, San Diego, CA 92102 Phone: 619-344-1307 Fax: 619-344-9299 Email: info@california-realtors.org
Produced with support by NAR, 1500 Fifteenth Street, N.W., Washington, D.C. 20005 www.nar.org

Step 2 – Court Case

- Unlawful Detainer (“UD”) is the type of case used to get an eviction order in Court.
- You can stay in the home until the case ends.
- The case is sealed until it ends, if the case is resolved without a judgment, there won't be any eviction on your record.

UD Timeline

- The notice expires
- Legal case is filed
- ***5 days to file a response with the court******
- Settlement conference*
- Trial
- Sheriff's eviction notice is posted
- Eviction performed

SAFE AND HEALTHY LIVING CONDITIONS



The right to habitable housing

You have the right to have your home maintained in safe, livable condition.

Examples:

- ▣ Plumbing;
- ▣ Hot and cold water;
- ▣ Heat;
- ▣ Electricity;
- ▣ Rodents and insects;

There are specific requirements for farm worker housing like the distance between the housing and any animal pens on a farm.

Report a problem



- Employee Housing Act
 - ▣ Environmental Health Services (650) 599-1112
- Farmworker Housing Taskforce

RETALIATION AND ILLEGAL EVICTIONS



Illegal Acts



- ❑ Change the locks
- ❑ Threaten force or violence
- ❑ Cut off utilities
- ❑ Threaten to report you to immigration enforcement

What to do if your boss changes the locks

- You can call the police and ask for a “Civil standby”
- You can file your own case against the landlord
 - ▣ “forcible detainer”
 - ▣ Illegal eviction

Retaliation is illegal

- ❑ Your boss or landlord cannot retaliate against you for asserting your rights.
- ❑ If they do it anyway, you can use it as a defense in your eviction case, and this defense can delay the case.
- ❑ You can call the Labor Commission's Retaliation Investigation Unit.

EXAMPLE OF LEGAL ISSUES



Example 2

- Juan has been living in an employer-provided house with 15 other farmworkers since 2022. He shares a room with three other employees in a single room. Juan's monthly rent is \$500 and is automatically deducted from his biweekly paycheck. Juan suspects that more than \$500 was deducted from the last three paychecks he received due to a significant inconsistency in the amount. Juan wants to ask his employer for a rent receipt, but he is afraid that this will upset his boss and he does not want to lose his job. What can he do?

Does Juan have the same rights as a tenant?

- ▣ Yes

Does Juan have the right to a rent receipt?

- ▣ Yes

OUR SERVICES



When to call



- If you receive an eviction notice
- If you have a pending eviction case in court

Housing Line

650-517-8911

**All of our services are available regardless
of your immigration status.**