

AFTER THE COURT'S DECISION

If the Court decides in favor of the tenant, the tenant will not have to move, and the landlord may be ordered to pay the tenant's court costs (for example, filing fees) and the tenant's attorney fees. However, the tenant will have to pay any rent that the Court orders.

If the landlord wins, the tenant will have to move. In addition, the Court may order the tenant to pay the landlord's court costs and attorney fees, and any proven damages, such as overdue rent or the cost of repairs if damage was done to the premises.

WRIT OF POSSESSION

If a judgment is entered against you and you do not move out, the Court will issue a Writ of Possession to the landlord. The landlord can deliver this legal document to the Sheriff, who will then forcibly evict you from the rental unit if you don't leave promptly.

Before evicting you, the Sheriff will serve you with a copy of the Writ of Possession. The Writ of Possession instructs you that you must move out within five days after the writ is served on you, and that if you do not move out, the Sheriff will remove you from the rental unit and place the landlord in possession of it. The cost of serving the Writ of Possession will be added to the other costs of the suit that the landlord will collect from you.

FORMS

The following forms are available on the Court's Web-site at: www.occourts.org or at the Court Clerk's Office.

UD-105	Answer – Unlawful Detainer
POS-030	Proof of Service by First Class Mail
L-80	Fee Waiver Booklet
UD-150	Request/Counter Request to Set Case for Trial-Unlawful Detainer.

INTERPRETERS

The court will provide free interpreter services in Unlawful Detainer matters. If you need free interpreter services, contact the Court Interpreter's office to request an interpreter at: <http://www.occourts.org/directory/cris/LAP> or call (657) 622-6878 and select option 2 and then option 8 on the phone menus.

QUESTIONS

If you have any legal questions, you must contact an attorney or do your own research. The Orange County Law Library is available to the public.

If you have a question regarding the status of your case, you may look online at www.occourts.org or contact the

Justice Center where the case is filed. Have your case number with you.

All documents must be completed properly and accurately. Any documents needing correction will be returned. You are responsible for providing copies. A self-addressed, stamped envelope is required for the return of your documents.

If you are representing yourself in an Unlawful Detainer action, you are exempt from the mandatory electronic filing rules (Code of Civil Procedure, § 1010.6, Orange County Superior Court Rule 352). If you prefer, you may electronically file your forms at www.occourts.org or you may file in person at the address listed on the Summons and Complaint.

COURT FEES

Make checks payable to Clerk of the Court.

Pursuant to the Government Code, the Superior Court must charge for the various documents filed and issued. A current fee schedule is available at the Clerk's Office or at www.occourts.org.

OTHER INFORMATION

ORANGE COUNTY PUBLIC LAW LIBRARY (714) 834-3397
515 N. Flower, Santa Ana
Building 32 (in the Civic Center Plaza)
WWW.OCPLL.ORG

FAIR HOUSING (800) 698-FAIR or (714) 569-0823
The Fair Housing Council is available to answer landlord-tenant questions, investigate discrimination allegations, and they have a counselor available.

ORANGE COUNTY BAR LAWYER REFERRAL AND INFORMATION (949) 440-6747

O.C. APARTMENT ASSOCIATION (714) 638-5550

LEGAL AID SOCIETY OF ORANGE COUNTY (714) 571-5200
(800) 834-5001
www.legal-aid.com

Legal Aid is available to answer landlord-tenant questions through its Hotline, provide community education at the weekly Landlord-Tenant Clinic, assist in preparation of pleadings, and provide representation in certain cases to senior citizens and very low income tenants.



This pamphlet is for general information only and is not a substitute for legal advice.

Special thanks to the Legal Aid Society of Orange County for their assistance in the development of this pamphlet.

Form No. L1196 (Rev. Jun. 2017)

Defending an Unlawful Detainer Lawsuit

DAVID H. YAMASAKI
CLERK OF THE COURT



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE**
www.occourts.org

Central Justice Center
700 Civic Center Drive West
Santa Ana, CA 92701
(657) 622-6878

**Harbor Justice Center
Newport Beach Facility**
4601 Jamboree Road
Newport Beach, CA 92660
(657) 622-5400

North Justice Center
1275 North Berkeley Avenue
Fullerton, CA 92832
(657) 622-5600

This information is intended as a procedural guide only.
You may wish to seek an attorney's advice.

TIME TO RESPOND TO AN UNLAWFUL DETAINER LAWSUIT

An unlawful detainer lawsuit is a "summary" court procedure. This means that the court action moves forward very quickly, and that the time given the tenant to respond to the lawsuit is very short. ***In most cases, the tenant has only five days, including weekends, to file a written response to the lawsuit after being served with a copy of the Unlawful Detainer complaint.*** If the fifth day to answer falls on a weekend or holiday, you can file your answer on the following Monday or non-holiday.

HOW TO RESPOND TO AN UNLAWFUL DETAINER LAWSUIT

Typically, a tenant responds to a landlord's complaint by filing a legal document called an Answer. If you are representing yourself in an Unlawful Detainer action you are exempt from the mandatory electronic filing rules (Code of Civil Procedure, § 1010.6, Orange County Superior Court Rule 352). You may file your response at the address listed on the Summons and Complaint. If you prefer, you may electronically file your response. Filing information and service providers can be found at www.occourts.org. You must also mail a copy of your answer to the plaintiff's attorney or if no attorney, to the plaintiff. Proof of Mailing must be filed at the same time as the answer. Once the answer has been filed either party may request the case be set for trial by filing a "Request/Counter-Request to Set Case for Trial – Unlawful Detainer".

LEGAL DEFENSES

You may have a legal defense to the landlord's complaint. If so, you must state the defense in your answer within the five-day period, or you will lose any defenses that you may have. Some typical defenses a tenant might have are:

- The landlord's three-day notice requested more rent than was actually due.
- The landlord did not maintain the property in condition fit to live (i.e. the landlord breached the implied warranty of habitability).

- The landlord filed the eviction action against the tenant for complaining about the condition of the rental unit or for exercising a right the tenant has under the law.
- The landlord filed the eviction for an unlawful discriminatory practice.

RETALIATORY ACTIONS AND EVICTIONS

A landlord may try to evict a tenant because the tenant has complained about a problem in the rental unit or exercised a legal right. The landlord cannot retaliate against you because you called the Health Department or any other government agency about the condition of your home; you exercised your rights to repair problems and deducted the cost from your rent, you organized with other tenants or formed a tenants' association or you did anything else you had a constitutional right to do such as complaining to your landlord about the condition of the rental unit.

BREACH OF THE WARRANTY OF HABITABILITY

Under the law, the tenant does not have to pay full rent if: there are serious problems that affect a tenant's health and safety; the landlord knew about the problems; had time to fix them, but refused or failed to do so; and the tenant(s) did not cause the problem or refuse to allow repairs.

The law does not require the landlord to keep your rental unit in perfect condition, but the landlord must provide these basic services: plumbing that works, hot and cold running water and enough hot water to wash and bathe, heat, electricity and lights which work and are safe, window screens, sufficient extermination to keep out roaches, fleas, bugs and mice or rats, clean common areas free from trash and debris, safe and secure stairways and railings, roofs, walls and windows that do not leak and are not broken, and adequate security.

DISCRIMINATION

By trying to evict you, the landlord may be unlawfully discriminating against you or your family. The law provides that the landlord may not discriminate against you or try to evict you simply because of your race or ethnic group, your religion, national

origin or ancestry, your sex, your marital status, your physical or mental handicap, or your sexual orientation.

ADDITIONAL LEGAL RESPONSES

Depending on the facts of your case, there are other legal responses to the landlord's complaint that you might file instead of an answer. For example:

- If you believe that your landlord did not properly serve the summons and the complaint, you might file a Motion to Quash Service of Summons.
- If you believe that the complaint has some technical defect or does not properly allege the landlord's right to evict you, you might file a Demurrer.

Note: No forms are available for these types of responses. It is important that you obtain advice from a lawyer before you attempt to use these types of responses.

APPEARING IN COURT

Before appearing in court, you must carefully prepare your case. Among other things you should:

- Talk with a housing clinic; tenant organization; attorney; or legal aid organization. This will help you understand the legal issue in your case and the evidence you will need.
- Decide how you will present the facts that support your side of the case, e.g., witnesses, letters, other documents, photographs, video, or other evidence.
- Have at least four copies of all documents that you intend to use as evidence: an original for the judge, a copy for the opposing party, a copy for yourself, and copies for your witnesses.
- Ask witnesses to testify at trial if they will help your case. You can subpoena a witness who will not testify voluntarily. A subpoena is an order from the court for a witness to appear. The subpoena must be served (handed) to the witness, and can be served by anyone who is over the age of 18. You can obtain a subpoena form from the Clerk's Office. You must pay witness fees at the time the subpoena is served on the witness, if the witness requests them.