

EVICCTIONS

The Sheriff's Office staff does not provide legal advice. The following information is provided in an attempt to answer questions regarding our role in the eviction process. If legal advice is needed you should contact an attorney or eviction service agency.

The only legal way for a landlord to evict a tenant is by bringing an unlawful detainer action in court. There are several steps involved in completing this process.

The tenant must be served with a legally correct notice. Currently accepted forms for the different types of notices can usually be found at large stationary stores or online at any number of legal web sites.

1. NOTICE

- a. 3 Day
- b. 30 Day
- c. 60 Day

One or a combination of multiple types of notices may be needed to affect valid notification depending on your particular circumstances. You can refer to the California Department of Consumer Affairs Website at www.dca.ca.gov or seek legal advice from an attorney to determine which notice is appropriate.

The Sheriff's Office can serve any of these notices and the fee is \$ 50.00

2. SUMMONS AND COMPLAINT UNLAWFUL DETAINER

If the tenant has been properly served with the appropriate notice and does not comply, the landlord can bring court action to evict the tenant(s). The landlord initiates this action by filing a Summons and Complaint Unlawful Detainer with the court. The tenant has 5 days from the date of service if personally served, or 10 days from the date of mailing if sub served per California Civil Code of Procedure Section 415.20, to move or file an answer with the court.

Two complete sets of documents are needed for each person to be served and the Sheriff's fee for service is \$50.00 per person served.

3. WRIT of EXECUTION (POSSESSION of REAL PROPERTY)

If the landlord wins the Unlawful Detainer action he will next have issued a Writ of Execution for Possession of Real Property. The landlord will deliver the Writ, his written instructions on the Sheriff's approved instructions form and the appropriate Sheriff's fees (\$180.00) to the Sheriff's Office Civil Unit for enforcement of the court order.

The Sheriff will process the eviction paperwork and serve the Notice to Vacate either personally on the named tenant or by posting the dwelling. The tenant has five full days after the date of service to vacate before the lockout can occur. The Sheriff can schedule the lockout for any work day after the 5 day notice requirement is met. Weekends and Holidays are considered when scheduling lockouts. After serving the Notice to Vacate the lead Deputy will notify the landlord or his agent of the date and time the lockout will occur.

If the lockout is successfully completed the deputy will post a Notice of Restoration on the dwelling and give a copy of the Restoration to the landlord or his agent. Posting of the Restoration means the eviction has been legally completed. If the now former tenant returns to the property without the consent of the landlord he can be arrested for trespassing.

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Do not call the Sheriff's Office Civil Unit for post eviction trespass, rather the landlord should call the jurisdictional Law Enforcement Agency that serves that address i.e. City Police Department etc...

If the former tenant has left personal property behind the landlord is responsible for safekeeping the personal property for 15 days after the date of the Restoration. The former tenant may redeem his personal property during this 15 day period by contacting the landlord and making arrangements to recover his property. The land lord may choose to recover reasonable storage costs before turning the personal property over to the former tenant. If the property is not redeemed within the 15 days provided the landlord may consider the property abandoned and sell it at public auction per California Code of Civil Procedure rules and requirements.

More detailed information may be gathered by visiting the Sheriff's Office Website at www.fresnosheriff.org and clicking on the "Civil" page button. On the Civil Page there are links for other agencies and resources that may be of assistance.

