

SDCAA White Paper: City of San Diego Cause Eviction Ordinance January 2015

BACKGROUND & SUMMARY

Under Section 1161 of the California Civil Code, a landlord can terminate a tenancy by giving the tenant a three-day, 30- or 60-day advanced written notice.

In localities that have cause eviction ordinances, like the City of San Diego, the local government may require the rental owner or manager to abide by special rules when serving 30-day or 60-day notices to terminate tenancy.

The City of San Diego adopted the “Tenants Right to Know” or cause eviction ordinance in March 2004. The ordinance requires that if a tenant has lived at the same residence for more than two years, the rental owner or manager wanting to terminate tenancy must provide a written notice explaining to the tenant why the tenancy is being terminated. If the tenant contests the eviction, the rental manager or owner must file an unlawful detainer through the Superior Court and have a judge rule in their favor to proceed with the eviction.

** Note that the ordinance does not apply to non-payment of rent cases. If the rent is past due, the rental owner or manager can provide the tenant a written three-day notice demanding payment of rent owed.

SAN DIEGO EVICTION ORDINANCE

On March 16, 2004 the San Diego City Council adopted the "Tenants Right to Know" ordinance also known as a cause eviction ordinance. The ordinance requires the rental owner and manager to provide in writing a '60-day notice to terminate tenancy' to tenants who have lived in the same rental unit for more than two years.

The SDCAA opposes the ordinance because it prevents rental owners from responding quickly to residents' and surrounding neighbors' concerns such as gang activity, illegal or illicit activity, domestic violence, or nuisance tenants, and thereby limits the rental owner's ability to protect themselves and nearby residents by removing problem tenants.

Under the City of San Diego Municipal Code, the rental owner or manager can serve a 60-day notice to terminate tenancy for the following reasons: ¹

- *Nonpayment of rent.*
- *Violation of obligation or tenancy or covenant of the tenancy.*
- *The tenant is committing a nuisance in the rental unit or to the appurtenances thereof, or the common areas of the housing complex.*
- *The tenant is permitting the rental unit to be used for an illegal purpose.*
- *The tenant has refused to renew the lease on the rental unit for a further term of like duration with similar provisions.*
- *The tenant has refused to provide reasonable access to the rental unit as prescribed in the California Civil Code Section 1954.*
- *To allow for owner/relative/resident manager occupancy.*
- *To make corrections of violations after having obtained all necessary permits from the City of San Diego when removal of the tenant is reasonably necessary to accomplish the repair or construction work.* ²
- *To withdraw all the rental units on the parcel of land from the rental market.*

If the rental owner or manager suspects the tenant(s) is violating the terms of the lease for the reasons listed above, it is recommended that the rental owner or manager begin documenting and gathering information to provide proof of the violations. The documentation will be helpful to the owner or manager if they decide to move forward with the 60-day termination of tenancy. On the 60-day notice to terminate tenancy, it is also important that the owner or manager list all or any tenants that are on the lease if applicable.

The rental owner or manager can serve notice to the tenant(s) using the following options:

- **Personal Service:** the rental owner or agent physically hands the notice to the tenant(s),
- **Substitute Service:** the rental owner or agent may visit the tenant's residence or place of employment. If the tenant cannot be reached, the owner or agent can deliver the notice to a person of "suitable age and discretion" at the tenant's residence such as another adult, 18 years of age or older, of the household.
- **Mailing and Posting:** If the notice cannot be delivered by personal or substitute service, the rental owner or manager can tape or secure the notice addressed to

¹ *These headings are taken directly from the City Municipal Code. However, the code itself under each heading contains additional information that can assist the owner or manager when noticing termination of tenancy.*

² *Ibid, same as above.*



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the tenant in a conspicuous location of the tenant's unit, like the front door. **The notice must be mailed to the tenant's address the same day it is posted.**

The tenant(s) has until the date posted on the notice to vacate and to have all of their personal property removed from the unit. If the tenant refuses to leave the unit or contests the termination of tenancy, the rental owner or manager will need to proceed with legal action by filing an "unlawful detainer" or "unlawful detention" with the Superior Court to evict the tenant(s). The rental owner or manager must provide a copy of the 60-day notice and as recommended provide additional documentation providing proof that the termination of the tenancy is warranted.

Should the court render a judgment against the tenant, the tenant is therefore responsible for paying attorneys' fees and court costs. Plus, the rental owner may recover an additional six hundred dollars (\$600) from the tenant under California's unlawful detention law. **Importantly, the tenant is still responsible for payment of rent and other charges owed until the actual date of termination of tenancy.**

While state law permits former tenants to reclaim abandoned personal property left at the tenant's former address, it is subject to certain conditions. The owner or manager should notify the tenant if they have any personal property in the unit. Once the tenant has been notified, it is the tenant's responsibility to contact the rental owner and make arrangements to reclaim their property. The tenant may be responsible for payment of storage or other costs should their personal property remain in the unit after the date ending tenancy.

The tenant also has the right to request an initial inspection of the unit and be present for that inspection. The inspection must occur no earlier than two weeks before the termination of the tenancy and during standard business hours. The owner or agent should provide an itemized statement proposed repairs or cleaning that will be deducted from the security deposit at inspection.

As the rental owner or manager, you can deduct other costs from the security deposit if you have documentation showing the tenant is responsible for those costs. The rental owner or manager should include a copy of the '**Notice of Resident's Option to Request an Initial Inspection**' with the **Form 420 - 60-Day Notice of Termination of Tenancy - City of San Diego** or provide the tenant the form within a reasonable time.

ADDITIONAL SOURCES

For more information, please refer to the SDCAA **Form 420 - 60-Day Notice of Termination of Tenancy - City of San Diego**. The form can be accessed on the **InfoLink Rental Forms** link after you have logged into the **SDCAA's internal webpage**.

To learn more about the City of San Diego's Just Cause Eviction Ordinance, please visit:

<http://docs.sandiego.gov/municode/MuniCodeChapter09/Ch09Art08Division07.pdf>

