

非法佔有 (逐出) 程序

備註：加州的逐出作業涉及兩個步驟，而且一律以此順序進行

1 適當的法律書面通知；以及

2 非法佔有 (「逐出」) 訴訟

1 糾正或遷離
三日前通知

3 日

1 3 或 30 或 60 日
租賃終止通知

3 或 30 或 60 日

若租客支付租金或糾正了租賃違約行為

爭議結束

若租客不付租金或不糾正租賃違約行為

2 屋主向法院提出控訴
(非法佔有訴訟)
並送達傳票給租客

有 5 個曆日
(包含週末)
可回應

5 日

沒有回應

缺席判決
(租客敗訴)

1-5 日

司法官通知

6-8 日

司法官下令逐出

提出答辯、
召喚陪審團及披露

提出抗辯或
刪除申請

26 日

提出撤銷
傳票送達

7 日

聽證

勝訴

敗訴

屋主必須重啟程序

提出答辯、召喚陪審團及披露

確定終審日備忘錄

8-13 日

強制和解協商

7 日

審判 (1-4 日)

勝訴

敗訴

- 租客續住
- 租客必須付還所有積欠租金 (若抗辯為可居住性，則由陪審團決定租賃費率)
- 租客獲得訴訟費用補償
- 租客獲得律師費補償 (若租賃協議中有此規定)。

UNLAWFUL DETAINER (EVICTION) PROCEDURES

Note: There are two steps to an eviction in California, and always in this order

1 Proper, legal, written notice; and...

2 Unlawful Detainer ("Eviction") Lawsuit

1 Three-Day Notice to Cure or Quit

3 Days

If tenant pays rent or cures violation of rental agreement

Matter Ends

If tenant does not pay rent or does not cure violation of rental agreement

2 Landlord files Summons & Complaint (Unlawful Detainer Lawsuit) at the Court & serves tenant

5 Days

5 calendar days (including weekends) to respond

Do Not Respond

Default Judgement (Tenant Loses)

1-5 Days

Sheriff's Notice

6-8 Days

Sheriff's Eviction

File Answer, Jury Demand and Discovery

File Demurrer or Motion to Strike

26 Days

File Motion to Quash Service of Summons

7 Days

Hearing

Win

Landlord has to start over

Lose

File Answer, Jury Demand and Discovery

Memorandum to Set for Trial

8-13 Days

Mandatory Settlement Conference

7 Days

Trial (1-4 Days)

Lose

Win

- Tenant Stays in Possession
- Tenant Must Pay Back all Back Rent (at rate determined by jury if defense is habitability)
- Tenant Recovers Costs of Suit
- Tenant Recovers Attorney's Fees If Provided in Rental Agreement.