

## COURT-CLERGY CONFERENCE MAY 19, 2022

Richard C. Alter  
Attorney at Law

### CREDIT SCREENING

Run Plaintiff Defendant Index check

Provide a Rental Application that includes "Were you ever involved in UD?" If so, explain

Run credit report

Set minimum requirements for qualifications (ex. Income of 3x amount of rent, evidence of rental payments, credit score minimum)

Limit number of occupants (2 per bedroom + 1)

Answer all questions on application especially last and 2<sup>nd</sup> to last residence

Note: Provide only a neutral reference

- 1) Date tenancy began
- 2) Monthly rental amount
- 3) Did resident provide notice of moving?
- 4) When you are requested to answer any other questions, respond that your lawyer doesn't allow you to answer other questions and not to infer anything either positive or negative from that.

Does the property have an occupancy permit?

Before giving keys to the resident, take pictures of the premises to document what you gave them.

### PAY RENT OR QUIT NOTICE

Names of signatories on agreement

Correct address (make sure that the address is designated on the outside of the door)

Amount of rent owed (Don't include late charges)

Designate the rental period for each amount

Who rent is paid to

Where rent is paid with address (not P.O. Box) and days/hours when someone usually there

Phone number

Serve by personal service or post and mail after first attempting to personally serve. (Take a picture of the notice posted on the door. Do not put in mailbox, doorjamb or slide under door.) The day of service is not day 1, Saturdays, Sundays and legal holidays are not counted.

Rent is not late on day 1. If agreement provides late charge, serve the day after the late charge ends. If rental agreement does not provide that rent is due in advance on the first (or other day), then rent is due on the last day of the month. It is not late until the first of the next month.

## PERFORM COVENANT OR QUIT NOTICE

Include the paragraph of the agreement that has been breached. In the explanation of the breach, include a detailed description of the event or breach, include date and time, names of witnesses (make sure the witnesses will testify in court.)

After the notice expires, has the tenant complied with the notice by not continuing to breach the rental agreement? Remember not to accept any rent after the notice is served. If the tenant is still not complying with the Perform Covenant or Quit Notice, then you may serve a Three Day Notice to Quit. If the tenant does not move-out, you can start an eviction lawsuit.

## COURT APPEARANCE

While you can appear through Microsoft Teams or by cell phone, I suggest that the landlord show up in person. Dress in clothing that you would wear to church. Make sure to provide copies of their exhibits to the court 2 business days before court. Bring extra copies to the court. Have the person who served the notice come to court too. Letters are not admissible, so if there is anything that you want the court to know from a witness, it is important to have that witness appear.

If you are the prevailing party, you will need to prepare a judgment for the court to sign. This document would need to be given to the Civil Business Office. Include a Memorandum of Costs as well. If you have named "All Unknown Occupants" in your lawsuit, they must be defaulted before the court can proceed with your judgment.

When you submit your judgment papers, you also need to submit a Writ of Execution for Possession. This document is the "blessing of the court" to allow the San Diego County Sheriff to give your tenant a 5 day notice that they will be coming back on day 6 to lockout your tenant. You will need to provide Sheriff's instructions along with a check for \$145.00. It is important to include a cell phone number for the sheriff so that can provide you with instructions. The sheriff will go to the property generally within 2 -3 weeks after receiving your lockout instructions. The sheriff will call you the day before to let you know what time lockout will occur. Be sure to be at the premises at least 15-20 minutes early, but do not go onto the premises. You should have a locksmith scheduled to meet you and the sheriff to make sure that you can get the sheriff into the property. After the sheriff provides you a certificate that Possession Has Been Restored, have the locksmith change all of the locks.

## GENERAL INFORMATION

If the tenant leaves personal property behind after the lockout, you must store for 18 days and provide either a Notice of Right to Reclaim Abandoned Personal Property Worth More than \$700 or Notice of Right to Reclaim in Abandoned Personal Property Worth Less than \$700. The personal property does not have to be left in the unit, and may be stored off the property, but the property must in a secured place. Please take pictures of the condition of the unit and all personal property remaining.

Don't be afraid to talk to your resident to see if you can work out a reasonable solution. If you do, make sure to put it in writing and have it signed and dated by all parties.

#### PORTABLE STORAGE COMPANIES

These companies bring huge container boxes to the premises and drop them off. The resident fills the boxes and the company sends a flat bed pick-up truck to take the boxes to storage. When you find a new place to move, the company will take your boxes from their storage facility and bring them to your new residence. Some of these companies are Big Box, PODS, Public Storage, Mobile Mini, and UHaul.

## STATUS OF NOTICES AS OF MAY 10, 2022

**HUD tenants:** 90 Day plus 2 additional VAWA forms

### **NOT IN CITY OF SD**

**30 Day Termination No Cause:** Can only be done if NOT in the city of San Diego and the tenancy is less than 1 year. Not subject to AB 1482 due to the short duration of the tenancy. No relocation assistance required.

**60 Day Termination Cause:** Only applies if the tenants have lived there over 1 year (Under 1 year=30 Day no cause)

We need to find out if the tenancy is exempt from AB 1482

- Is it a hotel, motel, and hostel intended for short term use?
- Is it nonprofit housing, religious or care facility for elderly?
- Is it school owned housing?
- Do the tenants share a bathroom or kitchen facility with an owner at the owner's primary residence?
- Is it a duplex and the owner resides in the other unit?
- Is it housing that was built in the last 15 years?
- Are they affordable housing units?
- Is it a single-family home or condo with no corporate ownership? If yes, did the landlord notify the tenant in writing that the tenancy is exempt from AB 1482? The tenancy is only exempt if: 1. Property is NOT owned by a real estate trust, a corp, an LLC with at least 1 corporate member AND 2. Landlord notified tenant in writing that tenancy is exempt. Must have given notice around July 2020 or after if tenancy commenced after.

If none of the bullet points apply, the tenancy IS SUBJECT TO AB 1482 and we must include cause AND landlord must provide relocation assistance. If one of the bullet points apply, then tenancy is exempt from AB 1482, no cause required and landlord does not have to provide relocation assistance.

**CITY OF SD:** We must comply with new ordinance passed April 2022 AND Tenants Right to Know 2004 Ordinance simultaneously.

Only 3 no-fault termination causes allowed under new ordinance passed April 2022

1. Removal from the rental market: 6 month termination notice, Notice must state cause, No relocation assistance required
2. Repair or construction work that is needed to comply with a government or court order that necessitates vacating the rental unit or where habitability severely threatens health & safety of tenants: 60 Day Cause, No relocation assistance required, must have permits pulled prior to serving notice per Tenant's Right to Know
3. The landlord, landlord's parent, grandparent, child or grandchild intend to occupy unit: 90 Day termination notice, Cause needed and no relocation assistance required.