

Answer to Unlawful Detainer

Step 1	<p>Complete the following forms in blue or black ink:</p> <ul style="list-style-type: none"><input checked="" type="checkbox"/> UD-105 Answer-Unlawful Detainer<input checked="" type="checkbox"/> POS-030 Proof of Service by First-Class Mail – Civil (you only fill out top part)
Step 2	<p>Make copies of the UD-105 Answer: Make 1 copy for you and 1 copy for the other party, in addition to the original.</p>
Step 3	<p>You must “serve” a copy of the Answer.</p> <p>“Service” means that someone, NOT YOU, who is at least 18 years old, must mail a copy of your <i>Answer</i> to the other party in the case or their attorney if they have one. You can ask a friend, relative, etc. to serve the <i>Answer</i> or you can look in the yellow pages and hire a “process server” to mail the papers for you for a fee.</p> <p>After the papers are mailed, the server (person who mails the <i>Answer</i>) must complete the POS – 030 Proof of Service by First-Class Mail – Civil and give it back to you.</p>
Step 4	<p>Turn in the original and copies of the Answer and the Proof of Service to the Clerk’s Office located at: 191 North First Street, San Jose, CA 95113</p> <p>The Clerk’s Office opens at 8:30am Monday-Friday, closing times are subject to change, visit www.sccscourt.org or call 408-882-2100 for current office hours.</p> <p>Dropbox: If the Clerk’s Office is closed, you may use the dropbox until 5:00 pm Monday through Friday. A check or fee waiver must be submitted with the documents. Documents must be placed in the dropbox by 4pm to be filed the same day.</p> <ul style="list-style-type: none"><input type="checkbox"/> If you are not asking for a fee waiver, you will pay the filing fee and get filed copies back when you file.<input type="checkbox"/> If you are asking for a fee waiver, your file-stamped copies may be returned immediately, OR you may be asked to return in up to 24 hours, OR your file forms may be mailed to you. Please check with the clerk who takes your forms.
Step 5	<p>After you file your <i>Answer</i> and <i>Proof of Service</i>:</p> <p>The landlord can ask the court for a trial. To get a trial date the landlord fills out a <i>Request/Counter-Request to Set Case for Trial-Unlawful Detainer</i>.</p> <p>The trial will be set approximately 20 days after the <i>Request</i> is filed.</p> <p>If you disagree with the <i>Request</i>, you have 5 court days to file and serve your own <i>Request/Counter-Request to Set Case for Trial-Unlawful Detainer</i>. “Court days” means you do not count any weekends or judicial holidays.</p>

WHAT IS AN UNLAWFUL DETAINER (“EVICITION”) ACTION?

An Unlawful Detainer action is a court process where a landlord asks the court to order that a tenant move out of the place where they live or work. This usually happens when a tenant doesn’t pay the rent or stays after his/her lease has ended. The court will decide if the tenant must move out of the landlord’s property. In these cases, the landlord is the **plaintiff** and the tenant is the **defendant**.

CAN THE LANDLORD MAKE ME MOVE OUT?

The main way landlords can legally force you to move out is if they win an Unlawful Detainer case. Then, they can get a “Judgment” for possession (this is a court order stating you must move out). The Sheriff can enforce this Judgment by making you move out.

CAN THE LANDLORD JUST LOCK ME OUT?

No. It is illegal to try to force you to leave by cutting off your electricity, removing outside windows or doors, changing the locks and/or getting rid of your personal things.

HOW LONG DOES THE PROCESS TAKE?

Since there are so many possibilities and we cannot know how quickly either party will proceed, we cannot provide a specific estimate as to the length of time the process will take. The tenant has 10 days to file an Answer for cases filed on or after 1/1/2025 and 5 days for cases filed before 1/1/2025.

- If the tenant does not file an Answer, the landlord can obtain a judgment by default. Since this does not require a hearing, it usually makes the process quicker.
- If the tenant files an Answer, the landlord must request a trial to obtain a judgment, since parties must go to a hearing, it usually makes the process slower.

Once a judgment is entered, the landlord must request a Writ of Possession and request the Sheriff's Office to service a Notice to Vacate. The Notice to Vacate will have the required move out date listed.

HOW CAN I GET HELP?

Here are some ways to get help:

- Go to <http://www.calbar.ca.gov/Public>, then click on “Lawyer Referral services” to hire or consult with a private attorney.
- For free legal advice and information, see our “Do-It-Yourself Resources” flyer. Go to www.scscourt.org, click on “Self-Help” then “Self-Help Flyers”.
- The Self Help Center/Family Law Facilitator – See our information flyer:
 - Contact us: Go to www.scscourt.org then click “**Contact the Self Help Center**”. Walk-in assistance is limited to emergencies so contact us remotely first.
 - Obtain Forms: Go to www.scscourt.org then click “**Complete Forms at Home**”
 - Form Review: These forms may be reviewed in person at the Restraining Order Help Center located at 201 N. First Street, San Jose, CA 95113, visit www.scscourt.org for current office hours. Since there are strict deadlines in eviction cases, you should go to the Self Help Center as soon as possible.
 - Note: We **cannot** help people who have attorneys.

Superior Court, County of Santa Clara
Self Help Center/Family Law Facilitator's Office
201 N. First Street, San Jose, CA 95113
408-882-2926