

When the Sheriff “Clinks” the Lock by FDR (Frank, D. Rubin, Attorney)

Generally, when the sheriff of the County of Los Angeles “clinks” a lock and you can hear it, that means that you are in the infamous Graybar hotel for a stay that will be anything but restful.

However, as property owners, that “clinking” sound at the tail end of an eviction (unlawful detainer) action is to retake possession of your premises.

Other articles have or will deal with all the hoops that dear doggy owner must jump through to get his or her reward (an empty unit, not some little biscuit treat). Some of the hoops you jump through include: serving notices, filing an action in court, pursuing an unlawful detainer action with service of a summons, answers, motions, default and/or a nasty trial or stipulation. All of that just to obtain a judgment for possession. It is with that judgment in hand that this article begins.

Writ of Execution

All you have in your hand with that judgment is a piece of paper. That is if you were lucky enough to prevail through the legal system and the judgment was in your favor. With that judgment in hand, how do you convert that document into an empty unit? With the court judgment you go to the court clerk’s office to obtain a writ of execution - possession of real property. That document gets certified. The writ is the official certification that you won in court, a right to obtain possession against a resident as to a specifically, identified rental unit.

Sheriff’s Office

With the writ in hand, you go to the local sheriff which in Los Angeles County is the civil enforcement agency of the courts. Without a court order which you have verified by the certification on the writ, the sheriff cannot act.

With the writ that you give to the sheriff, you also hand the sheriff a sheriff’s instruction. But that will not get you the sheriff’s services. Just as you paid the county clerk to issue a writ of possession, the sheriff is also not bashful about having his hand out. You currently have to pay the sheriff \$125 to follow the instructions this sheriff is required to follow because of the certified writ.

You have paid a filing fee in court, a process server fee, a fee for the writ and a fee to the sheriff. You also pay large property taxes. When you deal with the government all you do is pay, pay, and pay. At least in this case, you get rewarded with a vacant unit that will be run down (or trashed) so you can pay, pay again to repair workers. Maybe, in a few years, you will get a return on your investment.

The sheriff instruction requires the honor of the sheriff’s presence at your rental unit for the “sheriff”, pursuant to the writ of execution (possession of your real property), to place

the plaintiff in peaceful possession of the premises. You do not get an immediate RSVP for your \$125, you may get a receipt.

Note: Whenever you file something with the courts or a county agency, obtain a “conformed” copy. A conformed copy is a copy of the face page that gets the same filing or time/date stamp as put on the original document filed. If you do not get a receipt, a conformed copy is very helpful.

Sheriff Posts Notice to Vacate

Next, the sheriff issues a notice of eviction. A few days after receiving your sheriff’s instructions, the sheriff goes to the rental unit and posts the notice of eviction the miscreants’ door. The notice of eviction has big inch sized letters saying “NOTICE TO VACATE.” In the text of the notice it advises the tenant that they have five (5) days to move out. But, do hold your breath. Some sheriff’s offices post right away and others can take a week or so to post.

The sheriff does not show up on day six (6) after the posting of sheriff’s notice to vacate. Rather, around day eight (8) you receive a letter in the mail advising you of the actual lockout time and date. That day is usually ten (10) to twelve (12) days from the day the sheriff posted the notice to vacate.

Years ago, the sheriff could be stopped by an Arrietta claim, a claim of possession by a third party not named in a complaint. Arrietta was the name of a plaintiff (tenant) who filed an action against the sheriff of the county of Los Angeles challenging the sheriff’s lockout policies.

If at the time you initially serve your unlawful detainer complaint, you have a licensed process server serve a third party claim of possession, you do not later have to worry about a third party claim of possession (Arrietta claim). You will know you did things correctly if your writ includes a right to possession as to “all unnamed occupants.”

Bankruptcy issues as ever are still in limbo. Currently, the Los Angeles County Sheriff is not impressed by them regarding residential tenancies. However, that is always subject to change and it might mean a bankruptcy court hearing to lift the automatic stay.

The Lock-Out Day

Finally, comes the magic day about 45 to 60 days after you filed your unlawful detainer action, the time of the lockout. You show up at the premises about fifteen minutes before the sheriff has scheduled the event. You have with you a locksmith. The later in the morning for the lockout, the more likely the sheriff is to be running late. Some mornings, the sheriff could have ten or more places to lock-out the tenants. Some go quickly and on time but usually not. Thus, as your lockout time is set closer to the noon hour versus 8:00 a.m., the more likely the sheriff is running as much as one hour late.

Finally, the sheriff arrives. Usually it is at least two uniformed officers. They will greet you and verify you are the owner. If it is not you at the premises, make sure your representative has some form of written authorization from you.

Then the sheriff adjusts their body armor. Often, they unlatch a sidearm (they leave the safety on) and they knock on the door. They, the sheriffs, call out. If there is no response to “This is the sheriff”, they will walk around the premises if possible knocking on windows, other doors, etc. If the tenant appears, the sheriff advises them they are there to secure the premises and the tenant has five minutes to pack a bag and get out.

If no one replies, the sheriff watches as the locksmith opens up the premises. Often, the locksmith picks the lock. In one case, the tenant had changed the lock and the locksmith had to drill out the lock. Whatever it takes, the door is opened. Again, the sheriff adjusts body armor, makes sure their weapon is quickly available and enters yelling that it is the sheriff.

Eviction war story lore is rich in lockout events. One case saw the sheriff pound on windows and doors only to find the tenant sitting by the front door calmly reading a book, pretending to be surprised that they failed to hear the sheriff or the frustrated locksmith who found the lock so sabotaged the door had to be unhinged to get in.

In another case, the sheriff was certain that the tenant was still there hiding under the kitchen sink in the cabinet. Quietly, the sheriff went to the sink and let the hot water run. “Wal-la”, a tenant magically appeared.

If there is someone ailing or in a wheelchair, arrangements for an ambulance have to be made. Of course, it is you who pays for the ambulance. That special service is not included in your \$125 fee.

Lockouts are difficult at best. But when they are difficult, they can be dangerous. The sheriff never knows what nutcase will greet them. The sheriff is very safely alert during lockouts.

Be careful about the actual building identification that greets the sheriff. The sheriff can only lockout what is written in the paperwork. If the reality is in any way different, it is easier to alter the reality with a sign or paint than to start the eviction action over again.

If the premises are empty or after the sheriff has watched the tenant walk out and leave, the sheriff will sign a receipt of possession for you. Have the locksmith change all locks and secure all windows, etc. If the tenant shows up again, you have proof that they do not belong there.

Personal Possessions

Personal possessions left are dealt with by way of abandonment procedures. However, it is best to let a tenant back in only to move their stuff out. What is critical is to never, never ever give a key to the new locks to a tenant you evicted and locked out. What you

do is go to the premises, let the evicted tenant in for the agreed amount of time and have a rough and tough, no nonsense person supervise the personal property removal. A bar bouncer or retired NFL linebacker are preferred species for such supervision; a sumo wrestler will do in a pinch.

Sometimes, the front door is taken off the hinge and stored until the personal property removal is completed by the previously evicted tenant. The main thing is to never allow the tenant a chance to get back in and try to claim possession again.

When you hear that “clinking” sound as your new lock is being set in place as the sheriff leaves your premises newly restored to you, you can enjoy that sound without having to worry about posting bail.

Frank D. Rubin is admitted to practice in the California and federal courts. He is a member of the U.S. Supreme Court Bar. Mr. Rubin received his B.A. degree from the University of California, Los Angeles. He graduated from Loyola University of Los Angeles School of Law, where he earned his J.D. degree. Mr. Rubin has held the positions of president, vice president and director of several Los Angeles area apartment owners' associations. He has served the California State Apartment Owners Association as chairman of both the Legislative and Forms Committees. Mr. Rubin's practice emphasizes landlord/tenant law, both residential and commercial. He has handled thousands of evictions and related matters as an attorney for over 30-years.