

Oakland's Remedy for a Lease Violation

(Measure EE, Codified in the Oakland Municipal Code at 8.22.300, et seq.)

In Oakland, if your tenant is in breach of their contract or they are in violation of their lease, the landlord has to take the proper steps to notify them before they can proceed with an Unlawful Detainer.

1. The landlord must first serve a "warning notice", also known as the 7 Day Notice to Cease.
 - a. The time to "cease" must give the tenant at least 7 days, but can be reduced to 24 hours if the violation presents an immediate and substantial danger.
 - b. This notice must state:
 - i. The term of their tenancy or Just Cause Ordinance they are violating;
 - ii. In detail, the tenant's conduct that is in violation of the terms of their tenancy;
 - iii. The date(s) or approximate date(s) when the violation occurred.
 - iv. If the violation is repeated, not stopped, or not cured, the landlord may proceed with an unlawful detainer against the tenant. If the violation can be cured, the date when the violation must be cured or a notice of termination of tenancy may be given. The tenant must be given a reasonable opportunity to cure the violation.
 - c. Service of Notice – *see Proof of Service*.
 - i. Notice effective immediately – by personally delivering.
 - ii. Notice effective immediately – by posting a copy of the notice in a conspicuous place, if there was no person of suitable age or discretion to be found AND mailing a copy addressed to the tenants.
 - iii. Notice effective 5 days after it is mailed – by leaving a copy of the notice with a person of suitable age and discretion at either home or place of business of the tenants AND mailing a copy addressed to the tenants.
 - iv. Notice effective 5 days after it is mailed – notice is delivered by certified or registered mail only.
2. If the tenant doesn't cease within the time frame, the landlord must now serve a 3 Day Notice to Cure the Violation. It MUST:
 - a. Have the required Oakland Rent Control information text on the notice.
 - b. State specifically the term of their tenancy they are violating
 - c. State the date(s) or approximate date(s) when the violation occurred, and
 - d. Any witness(es) to the violation.
 - e. Serve one of the ways listed on the Proof of Service.
 - f. Within 10 days of service, a copy of the notice of termination and any accompanying materials must be filed with the rent board via drop off or mail to the Rent Board to 250 Frank J Ogawa Plaza, STE 5313, Oakland, CA 94612, or by fax to (510) 238-6181.
3. If the tenant still doesn't comply, the landlord may now file an Unlawful Detainer.
4. For further information, you may visit the Oakland Residential Rent Adjustment Program website at <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>
 - a. You may review the full copy of Regulations for the Just Cause For Eviction Ordinance (Measure EE, Codified in the Oakland Municipal Code at 8.22.300, et seq.) on their website.



Oakland's 7-Day Notice to Cease

(Oakland Municipal Code §8.22.30, et seq.)

TO: _____ and all others in
possession at _____,
_____, CA _____.

NOTICE TO CEASE

Pursuant to the Just Cause for Eviction Ordinance (OMC §8.22.300) you are hereby notified that you are substantially violating the following material term(s) of your tenancy:

Specifically, you are engaging in the following conduct (include date and time if known):

(Attach additional sheets, if needed)

Please take notice that you must correct the violation within seven (7) days of the service of this letter. If you were personally given this notice, then you have seven (7) days after the date you were given the notice to correct the violation. If the notice was mailed, you have 12 days from the date of the mailing to correct the violation. Should you fail to correct the violation within this time period, your landlord may bring an eviction against you.

Copies of the Just Cause for Eviction Ordinance (OMC §8.22.300) and implementing regulations, information on mediation services, lists of eviction counseling agencies and legal services providers are available by contacting Oakland's Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Fifth Floor, Oakland, CA 94612. Telephone: (510)-238-3721.

Landlord/Landlord's Agent

Date

3-DAY NOTICE TO CURE VIOLATION(S) OR MOVE OUT (Oakland)

Plaintiff(s): _____, Owner(s)

VS.

Defendant(s): _____, Resident

_____, Resident

_____, Resident

Notice To
Perform
Or Quit

To: _____, Resident(s)

AND ALL OTHERS IN POSSESSION, PLEASE TAKE NOTICE that you are in violation of the terms of your rental agreement and/or the law applicable to your tenancy at the premises located at _____, Apartment number _____, in the City of _____, California.

YOUR VIOLATION(S) consist of the following circumstances:

WITNESS(ES) TO VIOLATION(S): _____

DATE AND PLACE OF VIOLATION(S): _____

YOUR FAILURE TO PERFORM THE ABOVE COVENANTS OF YOUR RENTAL AGREEMENT AND/OR CURE the above violation(s) **OR QUIT WITHIN THREE (3) DAYS** can result in legal proceedings against you to recover possession of the premises and **PENALTY DAMAGES OF \$600.00** under Section 1174 of California Code of Civil Procedure.

Because of the above violation(s) the undersigned does hereby declare a forfeiture of your rental agreement. **NOTICE:** Pursuant to Section 1785.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation.

Pursuant to Oakland Municipal Code Chapter 8.22.360.A.2 codifying the "Just Cause" for Eviction Ordinance, seeking to recover possession in good faith, the landlord asserts that "the tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, provided further that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord. "[A]dvice regarding the notice terminating tenancy is available from the Rent Board." The Rent Board is located at 250 Frank J. Ogawa Plaza, Suite 5313, Oakland CA 94612, telephone (510) 238-3015.

Dated this _____ day of _____, 20____.

Owner(s): _____ By: _____ Agent



Proof Of Service

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served the NOTICE, of which a true copy appears on the reverse side of this Proof Of Service, by one of the methods indicated below on the following named

Resident(s): _____

1. **BY PERSONALLY DELIVERING** a copy of the Notice to the Resident(s) named above at the following address:

2. **BY LEAVING** a copy of the Notice for the Resident(s) named above with a person of suitable age and discretion at the residence or usual place of business of the Resident(s), said Resident(s) being absent therefrom. Said residence or usual place of business being at the following address:

AND MAILING an individual copy to each Resident by depositing said copies in the United States Mail, in a sealed envelope with first class postage prepaid and addressed to the Resident(s) named above at their usual place of residence which is at the following address: _____

3. **BY POSTING** a copy of said Notice for each of the Resident(s) named above in a conspicuous place, there being no person of suitable age or discretion to be found at any know place of residence or known usual place of business of the Resident(s). Said notice was posted at their usual place of residence which is at the following address:

AND MAILING an individual copy to each Resident by depositing said copies in the United States Mail, in a sealed envelope with first class postage prepaid and addressed to the Resident(s) named above at their usual place of residence which is at the following address: _____

Subject notice was served on _____, 20____. Within 10 days subject notice was served to the Resident(s), an individual copy was DROPPED OFF or MAILED to the Rent Board at 250 Frank J. Ogawa Plaza, Suite 5313, Oakland CA 94612; or FAXED to the Rent Board at (510) 238-6181 on _____, 20____.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this ____ day of _____, 20____ in the City of Oakland, County of Alameda, State of California.

Signature of Server: _____

Print Name of Server: _____

Fill out "Proof Of Service" On Owner's Copies Only

