

Kimball, Tirey & St. John LLP

How to Serve a Notice on a Residential Tenant

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Generally, California law requires that residential tenants be served nonpayment of rent and failure to perform a condition or covenant of the lease notices by:

- personal service; or
- substituted service by delivery to someone of suitable age and discretion and mailing a second copy to the residence, normal mail the same day; or
- posting on the property and mailing a second copy, normal mail the same day; or

Personal service (at the residence and place of business, if known) should be attempted before resorting to substituted service or posting and mailing.

Notices for (1) rent increases, (2) entry, and (3) termination of month-to-month tenancies may be served differently.

Rent Increases. Notices of rent increases may be personally served or sent by first class mail. If sent by mail, an additional five days is added before the service is effective.

Notices of Entry. Notices of entry may also be served differently than other notices. Notices of entry must be in writing in most situations. The notice may be personally delivered to the tenant, left with someone of a suitable age and discretion at the residence, or, left on, near or under the usual entry door of the residence in a manner in which a reasonable person would discover the notice. The “subservice” and “posting” methods of service for notices of entry do not require that a second copy be mailed.

The tenant must be given “reasonable notice”. The law presumes twenty-four hours is reasonable. However, the law also allows a notice to enter to be served by mail. If the notice is only mailed, the law presumes that six days’ notice of intended entry is reasonable. The only exceptions are in cases of an emergency or when the tenant has abandoned or surrendered the premises, as entry in those circumstances need not be made during normal business hours and no prior notice is necessary.

If the purpose of the entry is to exhibit the residence to prospective or actual purchasers of the property, and the landlord has notified the tenant in writing within 120 days of the oral notice that the property is for sale and that the tenant may be contacted to allow for an inspection, the notice may be given orally, in person or by telephone. At the time of the entry, the landlord or agent must to leave written evidence of the entry inside the unit.

Termination of Month-to-Month Tenancies. A notice of termination of a month-to-month tenancy may be given by 1) personal service, or 2) posting on the property and mailing a second copy, normal mail the same day, 3) substituted service by delivery to someone of suitable age and discretion and mailing a second copy, normal mail the same day, or 4) by certified or registered mail which method allows five days to the notice period.

Emailing Notices. The California legislature has authorized emailing four different California residential landlord communications: (1) security deposit accountings (but only with the parties' agreement), (2) abandoned personal property notices, (3) pesticide notices, when pesticides are applied by the landlord or the landlord's agent, and (4) Proposition 65 Notices. For more information about emailing residential tenants, see Kimball, Tirey & St. John LLP's article, *Emailing Residential Tenants in California*, available at http://ClientPortal.kts-law.com/resource_library/docs/Articles/EmailingResidentialTenantsinCalifornia.pdf.

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