

3-day Notices to Pay Rent or Quit – Recent Developments

Are 3-day notices to pay rent or quit legally permissible?

Yes. California Code of Civil Procedure (CCP) § 1161 (2) allows a landlord to serve a 3-day notice on a tenant who has not paid rent.

What is the recent development affecting 3-day notices to pay rent?

On June 26, 2025, the California Court of Appeal for the 2nd District, in the case of *Eshagian v. Cepeda*, held that a default judgment for possession entered against a tenant had to be reversed because of a defective notice used by the landlord. The Court of Appeal found that the notice used failed to comply with CCP § 1161 (2) because it did not set forth clear rules for payment, including to whom and where.

What were the specific problems with the notice in the *Eshagian* case?

- 1) The notice did not clearly inform the tenant that the tenant faced eviction (losing the right to possession) if rent was not paid on time after service of the notice.
- 2) The notice did not state when the notice period commenced or ended, or that the 3-day period excluded weekends and holidays.
- 3) The notice did not provide a clear address where rent could be paid, at a place and time where someone would be available to receive it.

Does the C.A.R. Notice to Pay Rent or Quit (PRQ) comply with CCP § 1161 (2)?

Yes, if completed correctly. The three defects in the case are addressed one-by-one below.

1. Notifying the tenant that the landlord is seeking possession of the premises.

The PRQ is titled, “Notice to Pay **Rent** or Quit.” This language referencing the alternative of paying rent or quitting is more explicit than the notice used in the case, for which the Court said the words, “pay or quit” were not sufficient. Further, paragraph 3 is titled, “Failure to pay or surrender possession” again presenting a clear alternative to the tenant. Lastly, the first sentence of paragraph 3 states, “If you do not pay the past due amount or give up possession by the required time, **a legal action will be filed seeking ...damages and possession...**” The tenant is put on notice of the potential loss of right to continue to occupy the premises.

2. Notifying the tenant when the 3-day period begins and ends.

Paragraph 1 of the PRQ states, “... WITHIN 3 DAYS, **starting the day after the date of service of this Notice, and excluding Saturdays, Sundays, and other judicial holidays**, you are required to (i) Pay rent, which is past due ...” Paragraph 4, titled Delivery of Notice/Proof of Service, states, “This Notice **was served by ...on _____ (date) ...** if mailed, ... _____ (enter date, if different from date on the first line...)” Unlike the notice used in the case, the C.A.R. form clearly identifies the starting date as the day after the date of service and the date of service is specified in the form when service is made. Once the beginning date is known, the ending date can be easily calculated, and the tenant is notified that weekends and holidays do not count toward the 3 days. Previously the form stated the 3 days was “from” the date of service but the language in red was added on 7/15/25 to avoid any potential misunderstanding.

3. Notifying the tenant of the place and time to pay rent.

Paragraph 2D of the C.A.R. PRQ provides, “Rent shall be **delivered to : _____ (specific individual) ... at _____ (Address).**” Paragraph 2E provides, “[] Rent may be delivered in person **between the hours of _____ on the following days: _____.**” The notice in the case listed the tenant’s address, not that of the landlord (or property manager) and included hours beginning at 8am and ending at 9pm at which time and place the landlord is unlikely to be present. The PRQ will be completed by the property owner or property manager, and should obviously list their own address and office hours.

Do notices given using the C.A.R. PRQ need to be re-served?

Whether the C.A.R. form was properly completed or not, and the potential consequences thereof, is a matter for discussion between the person preparing it and that person’s legal counsel.