



California Rural
Legal Assistance
Foundation



Analysis of Executive Order N-37-20 (Issued March 27, 2020) Regarding Evictions

Executive Order N-37-20 provides no practical help for renters during the COVID-19 pandemic. The order does not provide additional protections for renters who are unable to pay their rent during this crisis or for renters who may be evicted for other reasons or no reason at all. It simply gives some tenants more time to file a response in court, but only if they've met required conditions and are aware they have more time. It will be impossible to effectively implement and will create needless confusion in overburdened courts. The order allows many tenants to be evicted now, and simply kicks the can down the road for others, creating a looming wave of evictions that will overwhelm the courts, local jurisdictions, and legal aid programs struggling to respond, threatening to unravel any progress we've made on California's housing and homelessness crisis over the last few years.

The Order:

- Extends the deadline to respond to an eviction summons from five court days to sixty, *if* the complaint is based on nonpayment of rent *and* the tenant can establish that they:
 - Previously paid rent to the landlord.
 - Notified the landlord in writing, no more than seven days after the rent was due, that they need to delay all or some of the rent because of a COVID-19 related reason.
 - Retain documentation of the COVID-19 related loss of income.
- **However**, the order does not create any obligation for the landlord to accept the rent at a later date, enter into a payment plan, or otherwise work with the tenant to avoid the eviction.

This means that, until May 31, 2020:

- A landlord **can still serve** a three-day notice, even if the tenant has told them they can't pay the rent because of a COVID related income loss.
- A landlord **can still file** an eviction for nonpayment of rent or any other reason.
- A tenant **will still have to file a document**—likely an answer—within the regular five days specified within CCP 1167 in order to avoid default judgment.
- A tenant **will still have to appear** in court to defend the eviction.
- **Many tenants will be misled** into thinking they have 60 days to respond, but the court will likely enter a default judgment against them if they don't respond during the first five days.
- **Because a landlord is likely to seek default judgment** before the tenant can get an extension, this Order does not provide meaningful protection for tenants. Courts have no way of knowing whether tenants have complied with the requirements to obtain more time.
- The order **does not require landlords to work with tenants to allow them to pay back-rent**, or even suggest a timeline for this. Most local orders provide at least 180 days after the end of the emergency, long after the period the Governor has decided tenants should go to court on these evictions.
- The Order prohibits a Sheriff's lockout from being enforced through May 31st, but only for tenants who are being evicted for nonpayment who have complied with documentation requirements. **This would seem to deputize sheriffs into becoming arbiters of the law, which is unacceptable and**



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impractical. Moreover, it simply does not make sense because it's unlikely that such a lockout would occur before May 31, and tenants will need protections after that date to deal with the ongoing crisis.

- ***The reasons for nonpayment deemed acceptable also ignore the realities of the shutdown.*** For example, families with small children who are not in school are still suffering because they cannot take their children to daycare, or to family members who otherwise would have taken care of those children during work hours.
- ***Also starkly missing is*** anything to pause no-fault evictions, such as for renovation of the property, owner move-in, or converting the property to another use, and no-cause evictions. These types of evictions need to be put on hold in order to allow people to shelter in place.