

Rule Enforcement: Effective Use Of Seven Day Notices



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Webinar Presented by:

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Who are Bill & Neil?



Bill Dahlin has been practicing law and helping manufactured housing community owners and managers since July 1988. He has been trial counsel in multiple cases involving the protection of property rights, including disputes over rent control, mobilehome park closures, subdivisions, park sales and purchases, ground lease disputes, failure to maintain and myriad other land use issues. Bill understands the needs and goals of park owners. Rent control, utility issues and residency concerns are the essence of Bill's practice.



Neil Cacali is an associate with Hart King and is a member of the firm's real estate litigation and manufactured housing practice groups. He has successfully prosecuted and defended court actions ranging from prosecuting unlawful detainers (non-payment, rule violations, etc.), injunctions, restraining orders and general civil litigation. In addition to his trial experience, he is experienced in non-judicial foreclosures, bankruptcy and unlawful detainer defense.

When to Serve a Seven Day Notice (798.56 (d))

- In California, for parks with residents who are not complying with the park's rules and regulations, the Mobilehome Residency Law, California Civil Code § 798 et seq. ("MRL"), provides park owners and managers with several tools to effectively enforce the park's rules and regulations.
- The MRL specifically provides for and sets forth how to prepare and serve a Seven Day Notice for rules violations for "failure to comply with a reasonable rule or regulation of the park that is part of the rental agreement." MRL § 798.56(d).

When to Serve a Seven Day Notice (798.56 (d))

- An effective Seven Day Notice sets forth and quotes the rules and regulations that the resident violated and the park's authority under the MRL to issue the Seven Day Notice. The notice also sets forth the conduct that caused the violation and what action the resident needs to take (or cease taking) in order to come into compliance with the park's rules and regulations.
- Attaching photographs that evidence the rule violation is an effective way to evidence the violation, and can later provide a visual understanding to the trier of fact, should the matter end up in court.
- The park can use maintenance workers to observe and document rule violations. When a resident complains about another resident, it is good a practice to have the resident submit the complaint in writing.
- Written reports of park employees and written complaints from residents can be attached to the Seven Day Notice as additional evidence supporting the specific rule violation. Serving a Seven Day Notice starts a legal process that can potentially result in eviction.

When to Serve a Seven Day Notice (798.56 (d))

- A Park is not required to serve a Seven Day Notice for a rule violation. However, the park should ensure that it consistently enforces the rules among all residents.
- With that in mind, and depending upon the severity and longevity of the rule violation, as well as the park's relationship with the resident, the park may consider issuing a warning letter to the resident before serving a formal Seven Day Notice.
- Effective communication with park residents is essential to avoiding misunderstandings and can be a useful tool in avoiding costly litigation. But not all residents take warning letters seriously. If the resident does not come into compliance with the rules after receiving a warning letter, then the park may need to proceed with serving a Seven Day Notice to effectively enforce the rules.

When to Serve a Seven Day Notice (798.56 (d))

- As the name of the notice implies, the resident served with a Seven Day Notice has seven days to come into compliance. MRL § 798.56(d). If the resident has not corrected the rule violation or otherwise complied with the Seven Day Notice within seven days, then the MRL permits the park to proceed with serving a Sixty Day Notice to terminate the tenancy. MRL § 798.56(d).
- A tenancy can be terminated for: “Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto. No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days.”

When to Serve a Seven Day Notice (798.56 (d))

- If, however, the resident does comply with the Seven Day Notice within seven days, but then later violates the same rule or regulation, the park may issue another Seven Day Notice to the resident. After the park has served the same resident with three Seven Day Notices within a twelve month period, for violation of the same rule or regulation, upon the next violation of the same rule or regulation, the park may serve a Sixty Day Notice and termination of tenancy without giving another 7 day notice. MRL § 798.56(d). This is essentially a “three strikes and you’re out” procedure built into the MRL for habitual rule violators.
- As stated above, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation: the tenancy can be terminated.

A Pattern of Lesser Rule Violations Can Lead to Eviction

- There are numerous actions that can constitute a lease violation, and while some are not serious enough to result in eviction, a pattern of lesser violations can result in frustrating a landlord to the point they consider eviction. Examples include:
 - Not caring about the pet's behavior,
 - Repeated neighbor complaints for noise, or
 - Not properly maintaining the property.
- Causing damage to the property or partaking in illegal activity on the premises gives the landlord grounds to initiate an unconditional notice to quit, which can result in eviction within as little as five days.

Injunction For Violation Of Park Rules 798.88

a) In addition to any right under Article 6 (commencing with Section 798.55) to terminate the tenancy of a homeowner, any person in violation of a reasonable rule or regulation of a mobilehome park may be enjoined from the violation as provided in this section.

b) A petition for an order enjoining a continuing or recurring violation of any reasonable rule or regulation of a mobilehome park may be filed by the management thereof within the limited jurisdiction of the superior court of the county in which the mobilehome park is located. At the time of filing the petition, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527 of the Code of Civil Procedure. A temporary order restraining the violation may be granted, with notice, upon the petitioner's affidavit showing to the satisfaction of the court reasonable proof of a continuing or recurring violation of a rule or regulation of the mobilehome park by the named homeowner or resident and that great or irreparable harm would result to the management or other homeowners or residents of the park from continuance or recurrence of the violation.

c) A temporary restraining order granted pursuant to this subdivision shall be personally served upon the respondent homeowner or resident with the petition for injunction and notice of hearing thereon. The [temporary] restraining order shall remain in effect for a period not to exceed 15 days, except as modified or sooner terminated by the court.

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d) Within 15 days of filing the petition for an injunction, a hearing shall be held thereon. If the court, by clear and convincing evidence, finds the existence of a continuing or recurring violation of a reasonable rule or regulation of the mobilehome park, the court shall issue an injunction prohibiting the violation. The duration of the injunction shall not exceed three years.

e) However, not more than three months prior to the expiration of an injunction issued pursuant to this section, the management of the mobilehome park may petition under this section for a new injunction where there has been recurring or continuous violation of the injunction or there is a threat of future violation of the mobilehome park's rules upon termination of the injunction.

f) Nothing shall preclude a party to an action under this section from appearing through legal counsel or in propria persona.

g) The remedy provided by this section is nonexclusive and nothing in this section shall be construed to preclude or limit any rights the management of a mobilehome park may have to terminate a tenancy.

Questions?



Thank you!



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