



RETALIATION IN RENTAL HOUSING IS AGAINST THE LAW

Few things in life are more important than housing. In fact, along with food and clothing, shelter is considered a basic human necessity. It's no wonder that there are laws in place designed to ensure equal opportunity in housing. In California, the Fair Employment and Housing Act (FEHA) makes it illegal for a landlord to discriminate against a tenant on the basis of their race, color, religion, sex, national origin, familial status, disability, marital status, ancestry, sexual orientation, or source of income.

A person who believes that they've experienced housing discrimination has a legal right to file a complaint with the appropriate enforcement agency and request an investigation. Oftentimes, however, an individual will choose not to file a complaint against their landlord out of fear that they will lose the very same housing they are trying to protect.

Q: Can a landlord retaliate against a tenant for filing a housing discrimination complaint?

A: No. FEHA makes it illegal for a landlord to retaliate against a tenant for asserting their rights under the fair housing laws. A tenant asserts their rights when they:

1. File a complaint with a law enforcement agency,
2. Testify or assist in a housing discrimination case against their landlord, or
3. Aid or encourage another person to assert their fair housing rights.

Q: What types of conduct may be considered retaliation?

A: Retaliation can come in many forms. If the landlord's dominant purpose behind an adverse action is to retaliate against the individual for exercising their fair housing rights, the landlord's conduct may be illegal. A landlord may not do any of the following for the purpose of retaliation:

1. Harass the tenant,
2. Increase the tenant's rent,
3. Decrease the services provided to the tenant, including repairs,
4. Cause the tenant to leave the property involuntarily by issuing them a termination notice, or
5. File an unlawful detainer action (eviction) against the tenant.

Q: In addition to asserting fair housing rights, what other conduct by a tenant is protected from retaliation?

A: While the law recognizes the importance of equal opportunity in housing, it also recognizes the importance of safe and habitable housing. Therefore, the law also protects from retaliation a tenant who does not owe rent and who does any of the following:

1. Makes a complaint to the landlord about the habitability of their dwelling,
2. With the landlord's knowledge, makes a complaint to and seeks assistance from an appropriate agency regarding a habitability issue,
3. Without the landlord's knowledge, makes a complaint to an appropriate agency that ultimately issues the landlord a citation regarding the habitability of the dwelling,
4. Files an action against the landlord in a court of law involving habitability issues, or
5. Obtains a judgment or arbitration award against the landlord as a result of the uninhabitable condition of their dwelling.

Q: What can a tenant do if they believe their landlord has retaliated against them?

A: A tenant who believes they are a victim of retaliation should seek legal assistance. If the retaliation is due to the tenant exercising their rights to a safe and habitable dwelling, the tenant may have the option to either move out and sue their landlord for retaliation, or raise retaliation as a defense in an eviction proceeding. If the retaliation is due to the tenant exercising their fair housing rights, the tenant may have a basis for filing a housing discrimination complaint against their landlord.

Q: Who can help?

A: The Human Rights/Fair Housing Commission (Commission) of the City and County of Sacramento administers a Small Claims Advisory Clinic and Mediation Program and Unlawful Detainer Advisory Clinic and Mediation Program, located at the Carol Miller Justice Center, 301 Bicentennial Circle in Sacramento. While assistance with unlawful detainer actions is available in person only, the small claims advisor can be reached by phone at (916) 875-7846. The Commission also accepts complaints of housing discrimination at its downtown Sacramento office, located at 1112 I Street, Suite 250. Complainants can contact the Commission by phone at (916) 444-6903, ext. 120.