

LANDLORD/TENANT ANSWER IN PERSON FACT SHEET (CIV-LT-91)



#3: TENANT IMPROPERLY LISTED ON THE PETITION

Defense # 3 says: "The Respondent is indicated improperly, by the wrong name, or is not indicated on the Petition and Notice of Petition."

If you are a tenant or co-tenant (live with another person) in the apartment and your name is not correct on the notice of petition and petition, or it is not there at all, then you have a defense to the nonpayment petition. A person who can be made to move out of his or her apartment must be correctly named in the notice of petition and petition that starts the nonpayment case. If the landlord or owner knows your correct name, then that is the name that should be on the notice of petition and petition. You should not be named in the papers as "John Doe" or "Jane Doe." But, if you are named in the papers and there is a little mistake, this may not be bad. For example, if your name is Jose Rodriguez and you are listed as "John" Rodriguez, the court may not say the petition is no good.

If you are a family member or room-mate, and your name is not on the lease, you do not need to be named on the notice of petition and petition for the landlord or owner to start a nonpayment case. The petitioner may have listed you as an "undertenant" and you can be listed as "John Doe" or "Jane Doe."

If you have defense # 3, when you go to court, tell the Judge or Court Attorney that your name is not correct on the notice of petition and or petition. If the Judge says that you proved this defense, the case will be dismissed "*without prejudice*." This means that the landlord or owner made a mistake and can start another nonpayment case against you by serving you with a new notice of petition and petition. It does not mean that you will not have to pay rent. That will still have to be decided in a new case.