

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



#6: TENDER AND REFUSAL

Defense # 6 says: "The respondent tried to pay the rent, but the Petitioner refused to accept it." This defense is also called "tender and refusal."

If you tried to pay all of the rent that is due but the landlord or owner refused to take the rent, this may be a defense to the nonpayment petition. "Refusal" includes, accepting your check or money order, but not cashing it, or returning your check, money order, or cash, or refusing to accept your check, money order, or cash, or hiding from or avoiding you so that you cannot pay your rent.

To prove this defense in court, you will have to tell the Judge or Court Attorney when and how you tried to pay all of your rent and what the landlord or owner did. You should bring any evidence which may prove this, like letters, money orders or witnesses who saw the landlord or owner refuse the payment. If the Judge says that you have proved this defense, the nonpayment case will be dismissed. But, you will still owe the rent money to the landlord or owner.

The landlord or owner's refusal to take all of the rent when you tried to pay does not mean that you don't owe the rent. It means that the landlord or owner may not be able to sue you for the rent in a nonpayment case in Housing Court. But, the landlord or owner can still start a case for the rent in the Civil Court. You can't be evicted then because of nonpayment. But, in Civil Court there can be a judgment entered against you that can be used by the landlord to take some of your wages, or to take the amount of the judgment from your bank account.