

Timely Tender of Rent Refused

Affirmative Defense to add to Form Answer Packet

Did your landlord refuse to accept your rent, and is now trying to evict you for nonpayment of the rent the landlord refused? If so, then your landlord may not be able to evict you if you file an Affirmative Defense. These instructions will show you how to file an Affirmative Defense page to be used with a Form Answer Packet. This Affirmative Defense form cannot be used without a Form Answer Packet.

Did the landlord refuse to accept your rent?

A landlord cannot evict for nonpayment if the landlord caused that nonpayment by refusing to accept your rent. Landlords may try to do this because it is quicker to evict for nonpayment than for rule violations or terminating a month-to-month lease.

Was the rent timely and a full payment?

This defense will only work if the rent payment the landlord refused was "timely", which means it was paid by the date rent is usually accepted. (If a rent charges a late fee after a certain date, you can assume that rent is accepted until that date.) It will also only work if it was a full payment of rent.

AFFIRMATIVE DEFENSE 1
Timely Tender of Rent Refused

7 Defendant incorporates by reference, as if completely rewritten herein, the allegations set forth in the above paragraphs.

8 A landlord may not refuse a timely and full payment of the rent and then evict for nonpayment of that rent.

9 I tendered the following rent payment to the landlord:
A payment of \$400 on April 3, 2017.

10 The rent was timely and a full payment because:
Rent is due on the 5th and my rent is \$400.

11 Because the landlord refused to accept a timely and full payment of the rent, this case should be dismissed.

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Sample Form Answer for SRLN Forms Contest. Find forms and instructions for this page at:
<https://www.learnthelaw.org/group/254/classroom/2250571>



Write how much you offered and when

Write the amount of rent that you paid and write the date that you paid it. You should also attach evidence that shows why you offered rent. Write "Exhibit A" (or B if it is the second exhibit) on the evidence and attach it, and write See Exhibit A here.

Write why the payment was timely and full

Explain when the rent is usually accepted, which may not be the "due date" listed in the lease, but when a late fee is assessed. Also say how much rent you pay each month so that the judge can see that the payment you offered was for the full rent.

You will still owe rent that was refused.

If this defense works and you win the eviction, you will still owe the landlord the rent that was refused. You shouldn't owe any late fees, however.

Add to the Form Answer Packet

This Affirmative Defense is only to be used with the Form Answer Packet, after the first page with the title. Number all the pages when you finish. The first number is the current page, and the second number is the total number of pages in the answer (not counting exhibits.)

Money order receipts can show the date paid, especially since the landlord isn't disputing the payment.

Last updated May 2017.

Useful Evidence

- ★ Copy of payment. The best evidence to attach is a copy of the money order or check the landlord refused.