

Rent Ledger

When your payments and the landlord's charges have gotten confusing, it pays to start listing the rents due and paid, so that you have something to compare. Omit late charges by the landlord, which are illegal under Civil Code 1671 and 3302 [see below], but list every payment since the month before your different began. See the example: only one entry per line, charged OR paid. Compare this with the one your landlord supplies, and the judge will see where the landlord goofed, and over-charged the rent.

[illegible]

Civil Code 1671 prohibits any type of "liquidated damages" in a residential rental agreement, including late fees, unless it's impossible or impracticable to calculate the loss from late payment. Landlords will strain to claim all sorts of reasons to justify the late fee from emotional distress at the late payment to billable time for writing out notices or calling. These are not legitimate justifications for the late payment, because there is no actual charge for them. Actually, Civil Code 3302 says the loss is an interest at 10% (11/16/90th per day), so the landlord doesn't have to guess - all they could charge is interest, and not a flat percentage or dollar amount. If the 3-day notice asks for too much because of late fees or landlord misappropriations, you win. In most situations, there is NO loss, because the property management company charges a flat percentage of the rents collected, so late rent is not deducted. The interest lost for a few days (i.e., the landlord uses savings to cover the unpaid rent) is not worth the effort to write a notice or try to collect. For years, landlords could collect late fees, but when the law changed, hardly any landlords or judges found out about it, and many still think it's legal.