

5--DAY NOTICE FOR NON-PAYMENT OF RENT

When a tenant fails to pay rent or other charges due and owing under a lease or rental agreement (oral or written). A 5-day notice can be given any time after rent and/or other charges are in arrears. If a payment is made by the tenant of all overdue charges within the 5-day period, the rental payment is deemed reinstated.

If the tenant fails to pay by the end of the 5-day period, a forcible detainer action can be filed with the court on the 6th day.

Acceptance of partial payment by the landlord is deemed a waiver of the right to terminate for non-payment of rent unless otherwise agreed (landlord shall have the tenant sign an *Acceptance of partial payment and non-waiver agreement form*). **A.R.S. § 13-1371(B)**

For Example: Suppose a \$400.00 monthly payment of rent is due and owing on the 1st day of each month. On the 2nd day of the month the tenant makes a partial payment in the amount of \$200.00. If the landlord accepts this partial payment- rent is now paid through the 15th of the month. Although the remaining ½ of the month's rent is still due and owing, because the partial payment has been accepted, a 5-day notice cannot be given until the rent is once again in arrears (i.e. on the 16th day of the month, or thereafter). *This example is given only for illustrative purposes, and obviously, the dates and amount may vary.* **A.R.S. § 1371(B)**

PROCEDURES ON HOW TO SERVE 5 DAY NOTICE

EFFECTIVE DATES OF NOTICE. A.R.S. § 33-1313

PERSONAL DELIVERY. The hand-delivered notice becomes effective when received by the tenant. The forcible detainer complaint can be filed with the court on the 6th day. **Notices taped to the tenant's door are not considered as proper notice.** If personal service cannot be completed, then the notice will have to be mailed certified or registered.

CERTIFIED MAIL. When the notice is sent by certified mail it becomes effective on the date the notice is actually received/signed by tenant or five days after the date the notice is mailed, whichever occurs first. A five day notice sent by certified mail becomes a 10 day notice (5 + 5). The forcible detainer complaint can be filed with the court on the 11th day.

For the purpose of this section "days" are calendar days. **When filing a forcible detainer action, please bring a copy of your notice to the court.**

Please refer to the ARIZONA RESIDENTIAL LANDLORD & TENANT ACT for complete details

FIVE-DAY NOTICE TO PAY OR QUIT

Date: _____

_____, Arizona _____

Notice to Tenant(s),

Pursuant to Arizona Revised Statutes, Title 33, Chapter 10, Sec 33-1368 (B), you are hereby tendered five-day written notice to remit all due, but as yet unpaid, rent and other amounts owing, in the amount of: \$ _____ (Calculated through today). The stated amount is calculated as follows:

\$ _____ Rent from _____ to
\$ _____ Late Charges
\$ _____ Fee for preparing and serving Five-Day Notice
\$ _____ Other
\$ _____ **TOTAL**

The stated "TOTAL" is exclusive of future accruing costs. Daily late fees may accrue until payment is received. In the event full payment is not tendered within five calendar days after receipt of this notice, your right to possess and occupy the premises will be terminated and an eviction action filed against you to recover possession of the premises, rent, late fees, and any other amounts due under the rental agreement or available by law, including attorney's fees and court costs. Full payment within the five-day period will reinstate the rental agreement.

Assuming this letter is received on the date specified above, the fifth day falls on _____. Alternatively, you may vacate the premises on or before the fifth day. Vacating the premises, however, will not relieve you from liability for the outstanding balance.

Landlord or Agent for Landlord

This notice delivered this date _____ via:

____ Certified mail
____ Regular first class mail
____ Hand delivered
____ Other _____
____ Acknowledgment of hand delivery and receipt hereof:

(Signature of Tenant)

(Date)

Service of this notice may be accomplished certified or registered mail, hand-delivery, process server, etc.; the five days to tender payment shall commence after the first notice is received and shall not be extended if additional copies of this notice are subsequently received.