



## SOUTHWEST FLORIDA APARTMENT ASSOCIATION

P.O. Box 7821 • Fort Myers, FL 33911

6811

Unlicensed Practice of Law  
Standing Committee

Re: Public Hearing September 5, 1991

On behalf of the Board of Directors and membership of The Southwest Florida Apartment Association, response is submitted in this letter toward the issue of "Three Day Notices" and whether the preparation thereof constitutes the unlicensed practice of law and would state as follows:

The Board of Directors of SWFAA take the position that the preparation and/or service of Three Day Notices by non-lawyers does not and should not constitute the unlicensed practice of law for the following reasons:

1. Section 83 Florida Statutes requires that a Three Day Notice must substantially comply with the model form given in the statute. We contend that this requirement adequately safeguards a tenant as a noncomplying notice will constitute grounds for dismissal of an eviction action.
2. Requiring an attorney to prepare and/or serve a Three Day Notice will constitute an undue burden on a property manager financially and cause unnecessary time delays that will further prejudice the property management company and essentially the owner of the property.
3. The majority of Three Day Notice postings do not result in eviction proceedings, but rather serve as a stern and informative reminder of the rents due and the consequences of non payment.
4. The preparation and posting of a Three Day Notice is an integral part of the property managers duties and is performed on a regular basis allowing familiarity with the procedures and requirements of that notice.
5. The level of competence among property managers is such that they are fully capable of preparing and serving



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notices properly, and, should a problem arise as to the variations among notices in use, this problem could be easily mitigated by legally requiring a uniform preprinted form.

Wherefore, the Board of Director's opinion is noted and would state that the preparation and/or service of Three Day Notices should not be considered the unlicensed practice of law.

Respectfully submitted,

Gail Dover  
President, Southwest Florida Apartment Association  
on behalf of the Board of Directors and  
membership body of SWFAA

Please note: Should further pursuit of this matter occur,  
we request to have any information submitted to the following:

SWFAA  
P.O. BOX 6811  
Ft. Myers, Fla. 33911

cc: FAA office  
file

(a) If the landlord's failure to comply renders the dwelling unit untenable and the tenant vacates, the tenant shall not be liable for rent during the period the dwelling unit remains uninhabitable.

(b) If the landlord's failure to comply does not render the dwelling unit untenable and the tenant remains in occupancy, the rent for the period of noncompliance shall be reduced by an amount in proportion to the loss of rental value caused by the noncompliance.

(2) If the tenant materially fails to comply with s. 83.52 or material provisions of the rental agreement, other than a failure to pay rent, or reasonable rules or regulations, the landlord may:

(a) If such noncompliance is of a nature that the tenant should not be given an opportunity to cure it or if the noncompliance constitutes a subsequent or continuing noncompliance within 12 months of a written warning by the landlord of a similar violation, deliver a written notice to the tenant specifying the noncompliance and the landlord's intent to terminate the rental agreement by reason thereof. Examples of noncompliance which are of a nature that the tenant should not be given an opportunity to cure include, but are not limited to, destruction, damage, or misuse of the landlord's or other tenants' property by intentional act or a subsequent or continued unreasonable disturbance. In such event, the landlord may terminate the rental agreement, and the tenant shall have 7 days from the date that the notice is delivered to vacate the premises. The notice shall be adequate if it is in substantially the following form:

You are advised that your lease is terminated effective immediately. You shall have 7 days from the delivery of this letter to vacate the premises. This action is taken because cite the noncompliance.

(b) If such noncompliance is of a nature that the tenant should be given an opportunity to cure it, deliver a written notice to the tenant specifying the noncompliance, including a notice that, if the noncompliance is not corrected within 7 days from the date the written notice is delivered, the landlord shall terminate the rental agreement by reason thereof. Examples of such noncompliance include, but are not limited to, activities in contravention of the lease or this act such as having or permitting unauthorized pets, guests, or vehicles; parking in an unauthorized manner or permitting such parking; or failing to keep the premises clean and sanitary. The notice shall be adequate if it is in substantially the following form:

You are hereby notified that cite the noncompliance. Demand is hereby made that you remedy the noncompliance within 7 days of receipt of this notice or your lease shall be deemed terminated and you shall vacate the premises upon such termination. If this same conduct or conduct of a similar nature is repeated within 12 months, your tenancy is subject to termination without your being given an opportunity to cure the noncompliance.

(3) If the tenant fails to pay rent when due and the default continues for 3 days, excluding Saturday, Sunday, and legal holidays, after delivery of written demand

by the landlord for payment of the rent or possession of the premises, the landlord may terminate the rental agreement. The 3-day notice shall contain a statement in substantially the following form:

You are hereby notified that you are indebted to me in the sum of \_\_\_\_\_ dollars for the rent and use of the premises address of leased premises including county, Florida, now occupied by you and that I demand payment of the rent or possession of the premises within 3 days (excluding Saturday, Sunday, and legal holidays) from the date of delivery of this notice, to wit: on or before the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

landlord's name, address and phone number

(4) The delivery of the written notices required by subsections (1), (2), and (3) shall be by mailing or delivery of a true copy thereof or, if the tenant is absent from the premises, by leaving a copy thereof at the residence

(5) If the landlord accepts rent with actual knowledge of a noncompliance by the tenant or accepts performance by the tenant of any other provision of the rental agreement that is at variance with its provisions, or if the tenant pays rent with actual knowledge of a noncompliance by the landlord or accepts performance by the landlord of any other provision of the rental agreement that is at variance with its provisions, the landlord or tenant waives his right to terminate the rental agreement or to bring a civil action for that noncompliance, but not for any subsequent or continuing noncompliance.

(6) If the rental agreement is terminated, the landlord shall comply with s. 83.49(3).

History.—s. 2, ch. 73-330; s. 23, ch. 82-66; s. 6, ch. 83-151; s. 14, ch. 83-177; s. 6, ch. 87-195.

**83.57 Remedies; termination of tenancy without specific term.**—A tenancy without a specific duration, as defined in s. 83.46(2) or (3), may be terminated by either party giving written notice in the manner provided in s. 83.56(4), as follows:

(1) When the tenancy is from year to year, by giving not less than 60 days' notice prior to the end of any annual period;

(2) When the tenancy is from quarter to quarter, by giving not less than 30 days' notice prior to the end of any quarterly period;

(3) When the tenancy is from month to month, by giving not less than 15 days' notice prior to the end of any monthly period; and

(4) When the tenancy is from week to week, by giving not less than 7 days' notice prior to the end of any weekly period.

History.—s. 2, ch. 73-330; s. 3, ch. 81-190; s. 15, ch. 83-177.

**83.58 Remedies; tenant holding over.**—If the tenant holds over and continues in possession of the dwelling unit or any part thereof after the expiration of the rental agreement without the permission of the landlord, the landlord may recover possession of the dwelling unit in the manner provided for in s. 83.59 (F.S. 83.59). The landlord may also recover double the amount of rent due on the dwelling unit, or any part thereof, for the period