

**Form Review #4** *continued from pg.19*By J. Norton Cabell  
Reproduced from ORHA Forms Manual**How the form is filled in**

The date and times on the notice depend on when and how the notice is delivered to the tenant. See DELIVERY OF NOTICES on page 74 for explanation of how you can deliver the form and therefore how to complete the dates and times and methods of delivery.

1 See page 77 for how to complete this section.

2 Fill in the date and time the notice is delivered. Remember, the date cannot be earlier than the date on which the rent is seven days past due.

3 This is the date by which the tenant must pay the rent in order to avoid you terminating the tenancy.

What date this is depends on the method of delivery filled in above. If the notice was delivered by mail only, this date must be at least six days from the date in #2. This allows three days for mailing plus the 72 hours. For example, if you drop this notice in the mail on July eighth (the earliest you could do so, assuming the rent is due on July first), you would put "July 14" in this spot. If you both posted and mailed the same notice, you can ignore the mail days and you would put a date that was at least three days hence. In other words, if you posted and mailed this notice on the eighth, you would put the eleventh of the month here. If you hand-delivered the notice, you don't have to account for mail days either. You can put a date three days hence, once again. So, delivering the notice on the eighth, you could put the eleventh here. But see the section titled *When must the tenant pay?* above.

4 This blank is only used if you hand deliver the notice. That makes it an *hour notice* rather than a *day notice* (see page 76). So if you posted-and-mailed or mailed only, leave this blank, or better yet, draw a line through it. If you hand-deliver the notice, however, you can put a time in this space. That time must be no earlier than the time you deliver the notice. So if you hand the notice to the tenant at 9:53 a.m., you could put "9:53 a.m." here; or-what most landlords would do in that case-put "10:00 a.m."

5 Check one box or the other. If you hand-delivered or posted-and-mailed and the conditions listed above pertain, you *can* (but don't have to) check the second box and put here where the tenant should deliver the rent payment. Otherwise, check the first box. See *Where must the tenant pay?* above.

6 Although the law doesn't require a signature, since the form calls for it it's best to sign.

7 You needn't put a telephone number here, but this is a time when it usually works to your advantage.

Wouldn't you like to be getting a call the next day, saying, "Will you be there in an hour? I'd like to bring the rent over."

8 Put the amount of rent due on this line. Only the rent, remember; nothing else goes here. And if the tenant tenders this amount, you must accept it; even if you're due other moneys.

If you're owed less than a month's rent, read about partial rent at Form #29 on page 129. This should be whole month's rent. If you're owed \$100 from last month plus this month's rent of \$500, just put the \$500. You generally can't use a 72-hour notice for partial rent, but again see page 129.

**Final reminder**

Keep a copy of the notice you send the tenant. But see *Which copy?* on page 78. And, unless you're sure you know what you're doing, read the entire section entitled DELIVERY OF NOTICES on page 74 before completing this form. Most landlords who lose in FED court do so because they err in counting the days or hours on this notice or they deliver the notice wrongly.

**Older editions**

The most current edition is "Rev. 1/07." Earlier editions of this form didn't have the expanded section (the bottom half of the form) that more clearly spells out how and when the tenant is supposed to get the rent to you. The "1/06" and "12/03" editions have the space for the designated location but don't allow you the choice (*getting* you the rent vs. *mailing* it), rather make that dependent on how you deliver the notice. That doesn't always work, hence the expanded language. The "12/03" edition doesn't mention the "continuously available" sentence in the instructions in the *getting* you the rent instructions. It also refers to 90.400(2) which has been changed to 90.394. None of those peccadilloes matter if you're mailing the notice. Otherwise, you probably shouldn't use these.


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Editions prior to "1/02" didn't have the "midnight-end of day" language for mailed notices (so they expired at 11 :59 p.m.) but that language was found faulty in a case some years ago. Forms prior to the 1999 edition didn't have the "three strikes" language that can be used by facility owners to terminate tenancies for repeated late rent.

Forms from 1997 and before had added lines for late charges and returned check fees under the rent due line. Some earlier ones put a + sign by some of those. Either way, one could infer that this notice was for nonpayment of those fees as well as the rent. To avoid confusion, those lines were dropped. Editions up through 1997 said, "An additional three days must be added if tenant ordinarily pays by mail." The 1993 and 1995 editions of this form don't make it easy to hand-deliver because they don't have a space to put a time by which the payment must be made (Item #4 above). You'd have to cross out the "11:59 p.m." and write the time there.

So if you're mailing the form, don't use an edition earlier than "12/03." Otherwise, don't use anything but the current form.


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## 72 - HOUR NOTICE PAY OR VACATE FOR NON-PAYMENT OF RENT

NAME: \_\_\_\_\_ 1 \_\_\_\_\_ et al (and all others)

ADDRESS: \_\_\_\_\_ UNIT: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

DATE: \_\_\_\_\_ 2 TIME POSTED & MAILED: \_\_\_\_\_ OR TIME PERSONALLY SERVED ON RESIDENT: \_\_\_\_\_ OR TIME MAILED: \_\_\_\_\_

This is to inform you that your **RENT** is now at least seven (7) days past due. This is your seventy-two (72) hour written notice to pay your past due **RENT** by \_\_\_\_\_ 4 (if personally served [or midnight if left blank]); by 11:59 p.m. (if served by post & mail); or by midnight – end of day (if served by mail only), on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 3, or your rental agreement will be terminated as provided by ORS 105.

The number of days necessary for this notice shall be calculated by consecutive calendar days, not including the day of service. If served by mail ONLY, three (3) days must be added to allow for delivery of notice. This notice, if mailed, shall be mailed by First Class mail ONLY (not certified, registered, etc.). The day of mailing is not counted.

**Landlord does not waive right to terminate tenancy by simultaneously or subsequently served notices.**

Check one of the following boxes:

5  Payment is timely made if mailed to the landlord by the date above.

Payment must be made at the following location by the date and time specified above: \_\_\_\_\_

\_\_\_\_\_


If neither is checked, the first option applies.

Check the second box only if [1] the notice was delivered by personal delivery (ORS 90.155 (1) (a)) or mail and attachment (ORS 90.155 (1)(c)), [2] the rental agreement specifies rent must be paid at that location, [3] the location is available at all hours, and [4] the tenant has made all previous rent payments at that location.

Rent Due: \$ \_\_\_\_\_ 8 \_\_\_\_\_

Owner/Agent \_\_\_\_\_ 6 \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_ - \_\_\_\_\_ 7 \_\_\_\_\_



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