

APPELLATE DIVISION OF THE SUPERIOR COURT, STATE OF
CALIFORNIA, COUNTY OF LOS ANGELES

360 So Reeves, LLC v. Dutton

360 So Reeves · No. 24APLC00389 · Decided March 20, 2026

SUMMARY

The California Court of Appeal, Second Appellate District, addressed an unlawful detainer action based on nonpayment of rent. It held that a tenant’s claim that a three-day notice overstated rent is an affirmative defense, and that compliance with Civil Code section 1962 is likewise an affirmative defense rather than an element of the landlord’s prima facie case. The court affirmed the judgment and order denying the motion to vacate or set aside the judgment, and dismissed the appeal from the denial of the motion for new trial as nonappealable.

CASE DETAILS

COURT	Appellate Division of the Superior Court, State of California, County of Los Angeles
WRITING FOR THE COURT	P. McKay, P. J.; Guillemet, J.; Hobbs, J.
JURISDICTION	California Court of Appeal, Second Appellate District
DECIDED	March 20, 2026
DOCKET	24APLC00389
DISPOSITION	other
PROCEDURAL POSTURE	Defendant appealed from a judgment in a residential unlawful detainer action and from orders denying post-judgment motions for a new trial and to set aside or vacate the judgment.
STANDARD OF REVIEW	When the judgment is against the party bearing the burden of proof, the reviewing court asks whether the evidence compels a finding in that party's favor as a matter of law, based on evidence that is uncontradicted, unimpeached, and of such character and weight that no reasonable fact finder could find it insufficient. The appellate court does not reweigh conflicting evidence or reassess witness credibility. Legal questions are reviewed de novo, but the overstatement and section 1962 issues were reviewed under the failure-of-proof standard because defendant bore the relevant burdens.
PRECEDENTIAL VALUE	Published and certified for publication

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QUESTIONS PRESENTED

1. Whether the three-day notice to pay rent or quit was invalid because it overstated the rent due by including late fees.
2. Whether compliance with Civil Code section 1962 is an element of the lessor's prima facie unlawful detainer case or an affirmative defense borne by the tenant.
3. Whether defendant proved plaintiff failed to comply with Civil Code section 1962.
4. Whether the appeal from the denial of defendant's motion for new trial was appealable.

HOLDINGS

1. A three-day notice to pay rent or quit that includes late fees in the amount demanded overstates the rent due and is void; however, defendant failed to prove that the notice in this case included any late fees.
2. Compliance with Civil Code section 1962 is an affirmative defense for which the tenant bears the burden of proof, not an element of the lessor's prima facie unlawful detainer case.
3. Defendant failed to prove by a preponderance of the evidence that plaintiff violated section 1962, so the judgment was affirmed.
4. The denial of a motion for new trial is not independently appealable.

KEY QUOTATIONS

“Considering that the provision in section 1962—“[a] successor owner or manager shall not serve a notice pursuant to paragraph (2) of Section 1161 of the Code of Civil Procedure or otherwise evict a tenant for nonpayment of rent”— is roughly similar to the language used in sections 1942.4 and 1942.5, relate to the same subject and class of persons or things (landlord-tenant relationships), and have the same purpose or object (protecting tenants), we presume the Legislature intended section 1962 to be an affirmative defense.” (9-10)

“Accordingly, we hold that compliance with section 1962 is an affirmative defense for which defendant bore the burden of proof.” (10)

“Where, as here, the judgment is against the party who has the burden of proof, it is almost impossible for him to prevail on appeal by arguing the evidence compels a judgment in his favor.” (10)

FACTUAL BACKGROUND

Jeff Dutton occupied a residential unit under a lease with rent later increased to \$1,831 per month. After ownership of the property transferred to 360 So Reeves, LLC, plaintiff served Dutton with a three-day notice demanding \$7,236 in past-due rent for June 2023 through April 2024. Dutton did not pay the demanded rent or surrender possession, and at trial he failed to establish that the notice included late fees or that plaintiff violated Civil Code section 1962's disclosure requirements.

PROCEDURAL HISTORY

After a court trial, the Superior Court of Los Angeles County entered judgment for plaintiff for possession, unpaid rent, damages, costs, and attorney fees. The trial court denied defendant's motion for summary judgment and later denied defendant's motions for a new trial and to set aside or vacate the judgment. The appellate court affirmed the judgment and the order denying the motion to vacate or set aside, but dismissed the appeal from the denial of the motion for new trial as non-appealable.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The judgment and order denying the motion to vacate or set aside were affirmed; the appeal from the denial of the motion for new trial was dismissed as non-appealable.

CASES CITED

- *Lent v. California Coastal Com.* (2021) 62 Cal.App.5th 812, 837
- *Bookout v. State of California ex rel. Dept. of Transportation* (2010) 186 Cal.App.4th 1478, 1486-1487
- *Walker v. Los Angeles County Metropolitan Transportation Authority* (2005) 35 Cal.4th 15, 18-19
- *Frazier v. Superior Court* (2022) 86 Cal.App.5th Supp. 1, 7, 9-10
- *Bevill v. Zoura* (1994) 27 Cal.App.4th 694, 697
- *Heffesse v. Guevara* (2025) 108 Cal.App.5th Supp. 74, 82-83
- *Del Monte Properties & Investments, Inc. v. Dolan* (2018) 26 Cal.App.5th Supp. 20, 24-25
- *Nourafchan v. Miner* (1985) 169 Cal.App.3d 746, 752
- *Minelian v. Manzella* (1989) 215 Cal.App.3d 457, 464
- *Group XIII Properties LP v. Stockman* (2022) 85 Cal.App.5th Supp. 1, 6, 15
- *DLI Properties LLC v. Hill* (2018) 29 Cal.App.5th Supp. 1, 4
- *Rental Housing Assn. of Northern Alameda County v. City of Oakland* (2009) 171 Cal.App.4th 741, 755-756
- *Center for Local Government Accountability v. City of San Diego* (2016) 247 Cal.App.4th 1146, 1153
- *Wendz v. State Dept. of Education* (2023) 93 Cal.App.5th 607, 627, 633
- *Boyd v. Carter* (2014) 227 Cal.App.4th Supp. 1, 7
- *Western Land Office, Inc. v. Cervantes* (1985) 175 Cal.App.3d 724, 731
- *Beck Development Co. v. Southern Pacific Transportation Co.* (1996) 44 Cal.App.4th 1160, 1205

- Blackburn v. Drake (1963) 211 Cal.App.2d 806, 814
- Muzquiz v. City of Emeryville (2000) 79 Cal.App.4th 1106, 1121
- Rental Housing Assn. of Northern Alameda County v. City of Oakland (2009) 171 Cal.App.4th 741, 756

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