

CALIFORNIA COURT OF APPEAL, SECOND DISTRICT, DIVISION SIX

Deal v. Municipal Court

157 Cal. App. 3d 991, 204 Cal. Rptr. 79 (Cal. Ct. App. 1984) · No. 69418 · Decided June 28, 1984

SUMMARY

The California Court of Appeal considered whether Code of Civil Procedure section 1167, which required a defendant in an unlawful detainer action to respond within five days, violated due process or equal protection. The court held that the statutory period was constitutional, emphasizing simplified pleading forms and the availability of extensions for good cause. The court reversed the superior court's judgment granting a writ of mandate.

CASE DETAILS

COURT	California Court of Appeal, Second District, Division Six
WRITING FOR THE COURT	Storch, J.; Stone, P.J.; Gilbert, J.
JURISDICTION	California
DECIDED	June 28, 1984
DOCKET	69418
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The landlord appealed from a superior court judgment granting the tenants' petition for a writ of mandate, ordering the municipal court to vacate its denial of the tenants' motion to quash service of summons and to grant that motion in an unlawful detainer action.
STANDARD OF REVIEW	De novo review of the constitutional validity of Code of Civil Procedure section 1167 and the superior court's resulting writ judgment.
PRECEDENTIAL VALUE	Published California Court of Appeal decision; precedential under California law.
PARTIES	H.L. Tilbury v. Billy Joe Deal, Mary Lucy Deal

TOPICS

- landlord tenant
- due process
- equal protection
- statutory interpretation
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Code of Civil Procedure section 1167, which requires a defendant in an unlawful detainer action to answer or otherwise plead within five days after service of summons, violates the due process clauses of the United States or California Constitutions.
2. Whether section 1167 violates the equal protection clauses of the United States or California Constitutions by providing a shorter response period than the period generally applicable in civil actions.
3. Whether the statutory provisions allowing extensions of time for good cause provide an adequate opportunity for an unlawful detainer defendant to plead and defend.

HOLDINGS

1. Code of Civil Procedure section 1167's five-day period to answer or otherwise plead does not violate federal or state due process because, considered together with California's simplified unlawful detainer answer and provisions allowing extensions for good cause, it affords tenants an adequate opportunity to plead and defend.
2. Section 1167 does not violate equal protection because the distinctive factual and legal characteristics of the landlord-tenant relationship justify a specialized, expedited procedure for unlawful detainer actions.
3. The 10-day period in section 1167.5 and the five-day period in section 1167.3 are directions to the court rather than absolute limits on its authority; upon a proper showing of good cause, the court may extend the time to plead for as long as justice requires.

KEY QUOTATIONS

"Thus, the short time limitation provided for in section 1167 may, upon a proper showing, be extended to such time as may be just under the circumstances." (157 Cal. App. 3d at 998)

"In view of the foregoing, we conclude that section 1167 comports with due process." (157 Cal. App. 3d at 998)

FACTUAL BACKGROUND

A landlord filed an unlawful detainer action against tenants after serving them with a 30-day notice. The tenants were served with the complaint and summons and moved to quash service because section 1167 required them to answer or otherwise plead within five days. California law permitted tenants to assert several affirmative and equitable defenses in unlawful detainer proceedings, and the tenants contended that the short response period denied them adequate time to obtain counsel and prepare defenses.

PROCEDURAL HISTORY

The landlord filed an unlawful detainer complaint and served the tenants on March 25, 1982. The tenants moved to quash service, arguing that Code of Civil Procedure section 1167's five-day response period violated due

process and equal protection; the municipal court denied the motion. The superior court granted the tenants' writ petition and awarded attorney fees and costs, prompting the landlord's appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the superior court judgment and direct the superior court to enter an order denying the tenants' petition for writ of mandate.

CASES CITED

- Childs v. Eltinge, 29 Cal. App. 3d 843, 105 Cal. Rptr. 864 (1973)
- Union Oil Co. v. Chandler, 4 Cal. App. 3d 716, 84 Cal. Rptr. 756 (1970)
- Knight v. Hallsthammar, 29 Cal. 3d 46, 171 Cal. Rptr. 707, 623 P.2d 268 (1981)
- Green v. Superior Court, 10 Cal. 3d 616, 111 Cal. Rptr. 704, 517 P.2d 1168 (1974)
- Schweiger v. Superior Court, 3 Cal. 3d 507, 90 Cal. Rptr. 729, 476 P.2d 97 (1970)
- Aweeka v. Bonds, 20 Cal. App. 3d 278, 97 Cal. Rptr. 650 (1971)
- Abstract Investment Co. v. Hutchinson, 204 Cal. App. 2d 242, 22 Cal. Rptr. 309 (1962)
- Schubert v. Lowe, 193 Cal. 291, 223 P. 550 (1924)
- Knight v. Black, 19 Cal. App. 518, 126 P. 512 (1912)
- Lindsey v. Normet, 405 U.S. 56, 31 L. Ed. 2d 36, 92 S. Ct. 862 (1972)
- Thelander v. Superior Court, 58 Cal. 2d 811, 26 Cal. Rptr. 643, 376 P.2d 571 (1962)