

What is an Eviction?

An eviction is a lawsuit where the landlord asks a judge to remove you from your rental unit. Before filing an eviction lawsuit, the landlord must give you a written notice.

The Eviction Process

To evict you, the landlord must file an eviction lawsuit and receive a final judgment from the court before they can remove you from the rental property.

Illegal Evictions:

It is illegal for the landlord to try to force you to leave the rental property by changing the locks or turning off the electricity or water. If your landlord does any of

these things, you may be able to defend yourself in court and receive damages of up to 3 times your monthly rent amount.

Retaliation:

By law, the landlord is not allowed to get revenge against you for complaining to the city or local code enforcement agencies, the health department, the housing authority, or HUD about the conditions of your rental property. They cannot try to evict or punish you for exercising your rights as a tenant under local, state, or federal fair housing laws.

Eviction for Non-payment of Rent

A landlord must get a final judgment of possession legally evict you. The final judgement is a legal document, issued by the court, that can be enforced by the police.

Step 1: Three Day Notice

To start the eviction process, the landlord must first give you a Three-Day Notice. The Three-Day Notice must state:

- The total amount you owe for rent;
- That you must pay the rent or move out within three days; and
- The date you must pay or move out.

The three days do not include the day you received the notice, Saturday, Sundays, or legal holidays. For example, if you get the notice on Thursday, then Friday is day one, Monday is day two, and Tuesday is day three -- the day you must pay or move out.

The Three-Day Notice should not include late fees, repairs, or other charges that are not rent. However, if the lease says that these charges are considered rent, then the landlord can include these in the Three-Day Notice.

Step 2: The Eviction Complaint

If you do not comply with the Three-Day Notice, the landlord may file an eviction lawsuit in Court. Once you are served (receive) the eviction complaint, you will have 5 days to respond.

1. File your Answer/Response to the Eviction Summons within 5 days after you receive it, **AND**
2. Deposit the amount of rent you agree that you owe into the Court Registry.

If you do not agree with the amount of rent that is due, you have the right to ask a court to decide about the amount of rent owed. You can do so by filing a Motion to Determine Rent with your Answer.

Common Defenses You Can Include in your Answer

Your landlord is NOT the owner. If the person who filed the eviction case in court does not own the property, they do not have the authority to file the eviction. Your defense could be that the "Plaintiff lacks standing."

You have moved out. If so, then the eviction may no longer be relevant. Your defense could be that "The eviction is moot."

You believe the landlord is trying to get revenge by evicting you. If so, the landlord may be committing "Retaliatory Eviction". This means that the landlord is evicting you because you exercised your rights or attempted to exercise your rights as a tenant, such as filing a complaint against the landlord. Because you spoke up and asked for help or complained about something, the landlord is now retaliating, or getting back at you, by trying to evict you.

You withheld some rent payments after sending the landlord a 7 Day Notice about problems with the rental space. If you withheld rent payments to the landlord because of problems with the rental space that the landlord has not fixed, AND if you provided a 7 day notice, the eviction lawsuit may not be valid and you should express this in the Answer that you file.

The landlord did NOT deliver the 3-Day notice that is required by law. The landlord does not have a right to file an eviction complaint with the court if they have not sent the required notice to you. The eviction may be dismissed if you can prove that you have not received the required notice.

The landlord is trying to collect late fees even though you sent a 7-Day Notice about problems that needed to be fixed. If the landlord sent you a 3-Day Notice that is asking for money that is not rent even though you already served them notice of your plan to withhold rent until a problem is fixed, the landlord may not be able to make you pay late fees. If the 3-Day Notice letter that the landlord sent to you is confusing or contains conflicting demands or instructions, do not pay the fees until the court determines that you have to do so.

Step 3: Hearing or Order on Motion to Determine Rent

If you file an Answer with a Motion to Determine Rent, the court will either schedule a hearing on the motion or enter an order stating the amount you must deposit into the Court Registry.

The courts are holding many hearings and mediations online on Zoom. The judge will decide whether you must attend the hearing / mediation in person at the courthouse or online using Zoom. You should read all court notices carefully to make sure you are following the court instructions. If you do not appear for your hearing / mediation, the judge may enter a Final Judgment of Eviction against you.

If there is a hearing, be prepared to tell the judge:

1. why the landlord is wrong about the amount due,
2. how much you owe, and
3. whether the judge should reduce the amount you owe and why.

The judge may order you to deposit rent in the Court Registry:

- Failure to pay the full amount by the deadline set by the judge may lead to Final Judgment of Eviction against you.
- Depositing the amount ordered by the deadline set by the judge does NOT mean that you have won the case.

You may be ordered to go to “mediation.”

Step 4: Mediation

If you deposited the rent along with your Answer or have complied with the judge's order on your Motion to Determine rent, you may be ordered to go to mediation.

Mediation is a meeting between you, the landlord / landlord's attorney, and a mediator. The mediator is a neutral person trained to help you and the landlord work out your problem. Mediation means that you try to compromise.

If you reach an agreement at mediation, then you sign a paper called a "Stipulation" which will also be signed by the judge. **A stipulation is a binding legal document**. It is important that you understand the agreement before you sign it since it is unlikely that you will be able to get out of this agreement if you change your mind.

Step 5: Final Hearing or Trial

If you and the landlord cannot agree at mediation, then sometimes you may go directly to your final hearing or trial.

At the trial, the landlord goes first and presents their case. You can question the landlord and their witnesses. This is called cross examination. When the landlord is done, you present your case. You can have your own witnesses testify and submit your own evidence and documents. The landlord or their attorney can question you and your witnesses.

After hearing from the witnesses and looking at all the evidence, the judge makes a decision. Make sure you understand the judge's decision before you leave.

Step 6: Final Judgement

If you lose at the final hearing, or if you did not file an Answer and Motion to Determine Rent, then the judge may enter a Final Judgment of Eviction against you.

If the landlord sued you for unpaid rent or other charges, the judge may also enter a judgment against you stating that you owe money to your landlord. The losing side may also be ordered to pay for the attorney's fees and court costs of the winning side.

Step 7: Writ of Possession

After the judge enters a Final Judgment of Eviction, the Court Clerk will tell the Sheriff to remove you and all your belongings from the unit. The Sheriff will post a notice on your door called a “Writ of Possession” which gives you 24 hours to move out.

If you have not moved out by the time the Sheriff comes back, the landlord or the landlord’s agent may remove your belongings from the unit. The landlord will also change the locks when the Sheriff is there. They can do this even if you are not at home, and even when you are elderly, sick, or have young children. Once the locks are changed, the Landlord is NOT required to let you back into the unit to collect any items you left behind

Other Reasons for Eviction

Termination of Lease

If you are accused of violating your lease for any reason, including having an unauthorized person living with you, the landlord must give you official, written notice of the violation. In most situations, the landlord must give you time to fix the problem before they can file to evict you. The notice must be in writing, and it must include details about the specific violation.

Lease is Ending

In most cases, you must move out when your lease expires without being renewed. If you fail to move out, the landlord may file an eviction to remove you from the property. If a judge determines you remained in the property after your lease expired, you may be ordered to pay the landlord double rent, attorney’s fees, and costs.

Additional Resources

- Florida Courts Approved Answer Form
- Florida Eviction Answer Builder