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Evictions: What Every Tenant Should Know

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Information

An “eviction” is when a landlord forces a tenant to move out. In Florida, the laws that deal with evictions are strict. A landlord must follow all the steps of the law and go to court to properly evict a tenant.

All of the following must take place before an eviction:

1. The tenant gets a written notice to move out (vacate)
2. The tenant is served with legal paperwork – a summons and complaint. The papers must be delivered by a sheriff or another authorized process server.
3. The tenant is allowed to respond (in some cases, this may include going to court)
4. A Writ of Possession is posted

Illegal Actions – What Landlords Can't Do

Sometimes landlords shut off water, electricity or gas, or change the locks on the door to force tenants to move. This is illegal. You should call the police and a lawyer if your landlord tries to make you move by doing any of the following:

shutting off your utilities changing or removing the locks on your homeremoving doors or windows taking your property from your home.

In Florida, landlords that use these illegal practices may have to pay the tenant's rent for up to three months. This amount may be even greater if the landlord has cost you more than three months' rent. As a tenant, you will have to take the landlord to court to get this result, which is known as “damages.” The court, however, can order your landlord to pay your attorney's fees if you win.

Steps in a Legal Eviction

Step 1- The Landlord Sends a Written Notice

Reasons for Receiving a Written Notice to Vacate

- **Failing to Pay Rent** - Your landlord must first give you, the tenant, a written notice before you can be evicted. The notice must be in writing, and must give you 3 days to pay the rent or leave (vacate). The 3-day timeframe does not include weekends, holidays, or the day the notice is given. If you offer to pay the full rent within that time, your landlord must take it. The landlord does not have to accept the money if it is less than the total amount owed.
- **Breaking Terms in the Lease** - Your landlord may evict you for breaking the rules of your written lease. Unlike missing rent payments, this “Eviction for Cause” results from something specific the tenant did or failed to do. Some common reasons that landlords evict tenants include: being too loud (excessive noise) property damage being too dirty (failing to keep the place clean) parking in incorrect spots letting pets or people onto the property when you are not allowed Landlords must give tenants a 7-day written notice before evicting them. This notice must list what the tenant has done wrong and must warn the tenant that they are being evicted.
 - The tenant must then be allowed to fix, or “cure,” the problem at least once. Nothing else should happen if the tenant fixes the problem (by getting rid of the animal, no longer parking in the wrong spot, etc.). If the same thing happens again within 12 months, the tenant is given another 7-day notice. This second notice, however, does not give the tenant a chance to fix the problem
 - Landlords may also send a 7-day notice without a chance to fix the problem in more serious cases. These cases may include when a tenant damages, destroys, or incorrectly uses the property.
- **Ending a Lease**
 - No Written Lease or a Written Lease without an End Date - If a landlord and tenant do not have a written lease, then the tenant can end the lease at any time. The same is true if a written lease does include a specific timeframe. The tenant can end, or “terminate,” the lease in these cases for any reason. The tenant can also do so without giving the landlord proper notice.
 - Month-to-Month Lease - If rent is paid monthly, the notice must be given at least 15 days before rent is due. If rent is paid weekly, the notice must be given at least 7 days before rent is due. Termination notices must be in writing.
 - Does a Notice of Lease Termination Mean You Have to Move Right Away? No. You can stay in your home until you are sued and the case has been decided by the judge. If you think you might lose in court you can move before a case is filed. Eviction cases are public record and can will be available to future landlords. This may influence their decision to rent to you. Also, if you lose an eviction case the judge, you may have to pay even more. The judge can order you to pay your landlord's court costs, including attorney's fees.

Step 2 - The Tenant Gets a Summons and Complaint

- Landlords may sue tenants who refuse to move out. After a tenant gets a notice to vacate (or a notice of lease termination), there is a chance to fix the problem. Depending on the type of notice, like a 3-day or 7-day notice, the tenant must do something to fix the problem, like pay rent. If the tenant does not correct the problem, the landlord can sue. The landlord pays a fee and files papers, called a “complaint,” with the Clerk of Court to begin a lawsuit. The tenant gets a copy of the summons and complaint for eviction – this is called “service of

process.” These papers may be left on the tenant's door and another copy sent in the mail.

Step 3 - The Tenant Responds to the Complaint

Answering the Complaint

- If you are served with a complaint, you should contact a lawyer at once. You should not wait until the fourth or fifth day because that you would not have time to prepare a good defense. Florida law also lets a property manager file a complaint. However, the eviction case stops once the tenant files an answer. The case resumes when the actual owner of the property or their lawyer takes over in court.
See the section on Filling Your Answer for more information about answering a complaint.
- The tenant has 5 days to answer the complaint. The days are counted based on the date of service by the sheriff or the date of posting on the door, not by the mailing from the clerk. The 5 days begin on the day after the tenant was served and does not include weekends and legal holidays.
- If you have received a complaint as a tenant, you must file an “answer” with the Clerk of Court. This response must be in writing, listing your proper defenses – the reasons why you should not be evicted. The answer must be filed with the Clerk of Court and a copy must be mailed to the landlord in the same 5 days.
- If you owe rent to the landlord, you must also give the amount listed in the complaint to the court. You do not have to do this, however, if one of your defenses is that you already paid the landlord.
- The landlord can get a “default judgment” against you if you do not answer the complaint. A “default judgment” means that the landlord wins the case and you, the tenant, will be evicted. The landlord can also get a default judgment if you do not give the court the money you owe the landlord.
- Motion to Determine the Amount of Rent to Be Paid
 - As a tenant being sued, you may disagree with the landlord about how much money you owe. You can file a written Motion to Determine the Amount of Rent to Be Paid with the court along with your answer. The motion should say why you think the amount should be different and ask the judge to decide the right amount. You should attach any proof, like receipts, to the motion. The judge may then schedule a hearing to decide the correct amount.
 - Even if you plan to file this motion, you should still deposit the amount you admit you owe with the court. You should do this when you file your answer.
 - A tenant must deposit their monthly rent with the court as it comes due during the eviction proceeding.

Step 4 - Going to Court

- *The Hearing*
 - The tenant or the landlord can set a hearing date after the filing of the complaint and answer. No date is set if the tenant does not answer the complaint, does not deposit the correct amount of money with the court, or if the landlord gets a default judgment. The judge will schedule a hearing if the tenant and landlord do not.
 - The tenant and the landlord will be notified of where and when the eviction hearing will

take place. Both parties, the tenant and the landlord, get to present their cases before the judge. Normally, this is the only court date that will have. It is important to bring anything with you that you want the court to consider. This includes things like your lease, photographs, or receipts. If you want the judge to hear what another person has to say, that person must come with you to court.

- Remember to dress as tidily and conservatively as you can. Always call the judge “sir,” “ma’am,” or “your honor.”

- *Judgment for Possession*

- The judge will give the landlord a Judgment for Possession if the tenant loses the case.
- If the tenant does not go to the hearing, the landlord wins automatically. At the end of the case the judge can also order that the person who loses pay the person who wins' court costs and attorney's fees.

Step 5: Being Evicted

- If the landlord wins and gets a judgment for possession, the court will issue a final 24-hour notice. This notice, called a "writ of possession," is given to the sheriff. The sheriff then posts this notice on the tenant's rental home.
- The tenant then has 24 hours to move out. After 24 hours, the sheriff or landlord can forcibly evict the tenant and padlock the door. This can be done with or without the tenant's belongings inside. The landlord may impose a lien on the belongings up to the amount of rent due.

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Links:

What Every Tenant Should Know About Evictions - English

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