

# Understand Your Legal Issue

Solve Your Legal Problem

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## Illegal Evictions

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### FAQ

#### What is an illegal eviction?

Under Florida law, a landlord is prohibited from:

1. Locking you out of your rental home by changing the locks;
2. Removing your belongings from the rental home;
3. Cutting off your utilities, such as water, gas, lights, electrical, garbage service, heat, elevators, or refrigeration;
4. Interfering with your access to the rental home; or
5. Trying to stop you from staying in your rental home by doing such things as removing the outside doors, locks, roofs, walls, or windows.

Those actions are known as “self-help” evictions, and they are illegal. A landlord who does any of those things may be liable for your actual damages or three (3) months= rent, whichever is greater, as well as your court costs and attorney fees. See the section below on “Suing Your Landlord” for more explanation.

Even if you are behind on your rent, you have the right to stay in your rental home unless/until your landlord lawfully evicts you.

#### What is the proper eviction process?

A landlord must follow these steps before the tenant can be lawfully evicted:

1. Give the tenant a written notice of lease termination (or notice to vacate), asking the tenant to leave by a certain date;
2. File an eviction case in court if the tenant does not move out by the date in the landlord’s notice;
3. Win the eviction case and get an eviction order from the judge;
4. Get a final 24-hour notice (“Writ of Possession”) issued from the court and have it posted on the rental home; and

5. Have the Sheriff come out to the property and evict the tenant. (The Sheriff will then allow the landlord to change the locks and remove any of the tenant's belongings that are still inside the home.)

## **Are there any exceptions?**

Yes. The landlord IS allowed to change the locks, remove your belongings, etc. without going to court if you have:

1. Surrendered possession of the property (moved out voluntarily); or
2. Abandoned the property.

You may be considered to have “abandoned” your rental home if you are gone for half of the time between normal rent payments without paying your rent or giving your landlord written notice of your intended absence. For example, if you pay rent monthly, you may be considered to have abandoned your rental home if are gone for half of a month without paying your rent or giving your landlord written notice of your intended absence.

## **What can I do if my landlord tries to evict me illegally?**

If your landlord is a reasonable person, you may tell him/her about the law and ask that he/she undo the unlawful action so that you can continue living in the home peacefully unless/until you are lawfully evicted. If you cannot talk with your landlord, or if talking does not work, or if you fear further retaliation, you may do the following:

1. Call the police. They may not be able to resolve the situation completely, but they should tell your landlord to leave the property and stop breaking the law.
2. If your landlord has cut off your utilities, call the utility company to request that they turn the utilities back on in your name. (You might be required to pay a deposit and service charge if the account was not previously in your name.)
3. If your landlord has locked you out, you may get back in by cutting off the lock or going in through a window. Make sure you have some proof available to show that you live in the home, so that the police will not arrest you for “breaking in.” And make sure you can re-enter the home safely.
4. Sue your landlord for breaking the law. See below.

## **Suing your landlord**

If your landlord has violated the law by locking you out, cutting off your utilities, or doing one of the other illegal things listed at the top of this page, you may sue your landlord. You may sue for money and/or for an injunction requiring your landlord to undo his/her unlawful action and leave you alone. If your landlord breaks the law by removing your belongings from the rental home or denying you access to your belongings, you may also ask the judge for an order requiring your landlord to return your belongings to you. That type of claim is called “replevin,” and it can be filed as a separate claim in the same lawsuit.

If you sue your landlord, you should state in your Complaint that you are suing your landlord

under section 83.67 of the Florida Statutes. You should also specify whether you are suing for money, an injunction, an order of replevin, or all of those things.

If you prove that your landlord broke the law, you are entitled to an award of your "actual damages" or three (3) months' rent, whichever is greater, as well as your court costs and attorney fees. "Actual damages" are the amounts of money you lost or had to spend as a direct result of the landlord's unlawful action. For example, if you had to spend \$100 on a hotel room because your landlord unlawfully locked you out, or if you lost belongings valued at \$100 because your landlord unlawfully removed them from the rental home, those amounts would be "actual damages."

If you prove that your landlord broke the law more than once (for example, if your landlord shut off your utilities one day and then locked you out on the next day), you are entitled to a separate award of damages or three (3) months' rent for each violation. If the total amount of compensation you are seeking from your landlord is \$5,000 or less, you would need to file your lawsuit in Small Claims Court. (JALA has a separate pamphlet about Small Claims Court and information about a free Small Claims Court clinic that is offered once each month.) If the amount you are seeking is more than \$5,000 but less than \$15,000, your lawsuit would need to be filed in County Court. If you are seeking more than \$15,000, it would need to be filed in Circuit Court.

There is a fee to file a lawsuit, and the clerk of the court will have a list of the applicable filing fees. However, you may request to have the filing fee waived if you cannot afford to pay it. The clerk of the court can provide you with the extra form you would need to fill out in order to ask the court's permission to file a lawsuit without paying the filing fee.

## **Special Note**

The information in this document applies to normal landlord-tenant situations, such as the rental of a house, mobile home, or apartment. It does NOT apply to some other situations, such as occupancy in a hotel room or in a treatment facility. If you are not sure if you are covered by the landlord-tenant laws, you should apply for services at your local legal aid office or contact another attorney.

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### **Links:**

Illegal Evictions

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