

## Evictions

There are many reasons for which a landlord may try to evict a tenant. These reasons include: if a tenant owes rent; if there are any unauthorized occupants or guests living in the dwelling; or if there is any other substantial breach of the rental contract. Note that an eviction is different from a termination of the contract at the end of the lease term. In order to legally evict a tenant, the landlord must follow the procedure below, which will include going to the Justice of the Peace court or a higher court.

There are two types of evictions commonly used, a three-day notice for possession for a listed cause, and a thirty-day notice for possession when no lease is currently in effect. Both of these evictions take approximately the same amount of calendar days to complete. As the three day notice is only the beginning of a process that can take up to several weeks dependant upon the availability of your tenant to be served with papers, the level of cooperation of your tenant, Justice of Peace Court Dockets and the complete documentation of your case available to the court.

The three-day notice is issued for a cause such as: 1. Non-payment of rent. 2. Violation of quiet enjoyment, criminal activity, or any other provision of your lease.

Note: It is important to have a rental agreement that is legally binding that prohibits criminal activity- so quick action can be taken when necessary.

The thirty-day notice is used in situations such as: 1. Tenant refusal to accept your proposed changes to lease. 2. The landlords' desire for repossession for any reason after a lease has expired.

The eviction process:

The landlord must first deliver a written Notice to Vacate to the rental unit. This is also known as demand for possession. The tenant is entitled to at least three (3) days notice to vacate unless a written lease sets a different period, such as 24 hours. The notice may be: 1. Delivered to the tenant or any person over 16 years of age residing at the unit; 2. Delivered by certified, registered, or regular mail; 3. Delivered by attaching it to the inside of the front entrance door; or 4. Attaching it to the outside of the front door only if: -there is no mailbox and -the landlord cannot enter the unit because of a dangerous animal or there is an alarm system and the landlord does not know the code.

The notice should: 1. State the number of days to vacate and 2. Indicate, "The tenant's right to occupancy is being terminated."

The notice may also: 1. Be dated; 2. Indicate the reason for the eviction; and 3. Indicate the amount of rent that is delinquent, if applicable. The tenant does not

have to move out of the unit by the date indicated in the Notice to Vacate. If the tenant decides to stay in the unit, the landlord then has the right to file an Eviction Suit at the Justice of the Peace office. The landlord still cannot remove the tenant or the tenant's property without a court order, except in the case of abandonment or when exercising a landlord's lien. After the landlord files the eviction suit, the court clerk will send the eviction citation to the Constable's office for service to the tenant. After two unsuccessful attempts, the Constable will post the citation in a conspicuous place on the outside of the rental unit. The landlord does not have to accept any delinquent rent.

The tenant may file an appeal to the court in writing, orally, or submitted by an attorney. Then a court date will be scheduled for the Eviction Hearing. Once the hearing date has been set, the landlord and tenant should appear before the Justice of the Peace to present their facts. The Judge will make a decision (judgment) based on the facts presented during the eviction hearing. If the judgment is in favor of the landlord, tenant will have five (5) days to move out or appeal the decision. If the judgment is in favor of the tenant, the landlord will have five (5) days to appeal. If the tenant does not move out or appeal, the landlord must request that the Judge issue a Writ of Possession, which is a court order directing the Constable or Sheriff to place the landlord in possession of the rental unit. The landlord under the supervision of the Constable or Sheriff will remove the tenant, all occupants and personal items. Before removing all people and belongings, the officer executing the writ must give the tenant 24 hours to move from the time the officer posts a written warning on the front door. This notice must be no smaller than 8 ' / X 11 inches. It must inform the tenant that a writ has been issued, and state the date and time the writ will be executed.