

1. How Does the Eviction Process Work?

Tenancy Terminated

An eviction case can only be started after a tenancy has been legally *terminated*, or ended. To end most tenancies, a landlord must give a tenant a written notice called *Notice to Quit*. A Notice to Quit is the first step in an eviction process. A landlord must then go to court to get a judge's permission to evict. There are strict requirements about the length of a Notice to Quit.

- For non-payment of rent, a landlord may use a 14-day notice
- For a tenant without a lease (*tenant at will*), a landlord may use a 30-day notice for reasons other than non-payment or for no reason at all.
- For a tenant with a lease which has not yet expired, the lease may state how much notice.

2. When can a landlord go to court for an eviction?

Summons & Complaint

After the notice to quit period has completely passed, a landlord may then go to court and start what is called a *summary process* case, which is a legal term for an eviction court case. It is called "summary process" because it is quicker than most types of court actions.

To start an eviction case a landlord serves a tenant with a summary process *summons and complaint* through a person who is authorized to serve court documents, such as a constable or sheriff. A landlord must then file the summons and a complaint with the court at least 7, but not more than 30 days after it has been served on the tenant.

A summons and complaint states why the landlord is evicting a tenant, the original date for which a trial is scheduled, and the date by which a tenant may file an *answer*.

3. What is an Answer?

Answer

An *answer* is a document that a tenant files with the court which explains the tenant's case. No fee is required to file an answer. The tenant must deliver (no mail) and answer to the landlord and the court by the date listed in the summons.

The answer may include *defenses* and *counterclaims*. Defenses are legal reasons tenants may have to defend against an eviction. Counterclaims are legal claims tenant may have for monetary *damages*.

4. What is a Discovery?

Discovery

Either party in an eviction case has a right to file what is called discovery. Discovery is the legal process before a case come to court that allows parties to get information from one another. Discovery can include:

- A written list up to 30 questions (called *interrogatories*),
- A request for copies of certain documents related to the tenancy
- A request that the other party admits or denies certain facts.

If discovery is filed with the court and served on the other party by the same date that the answer is due, the original trial date is automatically postponed for two weeks. A party then has 10 days to respond to discovery requests.

5. How are cases scheduled for trial?

Court Date

The summons tells parties the date that a case is scheduled for trial. If, However, either party files requests for discovery by the date the tenant's answer is due, the court will automatically reschedule the trial for two weeks later.

In addition, a party may ask the other party to *continue* the case to a later date. For example, if a tenant will not be able to appear on the trial date for a good reason, a tenant can ask the landlord to postpone or continue the case to another date. A party can also file a *motion* (a formal request) with the court to postpone the trial date to a later time. It is up to the court to decide if there is good reason to grant the request.

6. What is the first step that happens in court?

Mediation

When parties arrive in court on their trial date, court staff will encourage them to go to the court's mediation process to help them resolve their case. Mediation is voluntary. It offers parties an opportunity to shape their own solutions. Parties are allowed to have anyone they choose assist them in mediation. Everything said in mediation is confidential and cannot be repeated to a judge. And if the agreement cannot be reached both parties have the right to see a judge.

7. What happens in Mediation?

Agreement

If parties agree to mediation, court staff (known as housing specialists) will list the issues and claims that both parties have attempt to determine what their goals are and help the parties arrive into an agreement.

Parties should carefully read the agreement before signing it and be sure that they understand all of the terms in it. Parties—especially those not represented by legal counsel—should also understand that by signing the agreement they are giving up the right to a trial and they may be giving up their right to address certain claims raised or discussed, but not deal with it in the agreement.

8. What happens at Trial?

Trial

If parties do not come to an agreement on how to resolve the case, or choose not to go to mediation, the case then goes before a judge for a trial. At trial, each of the parties tells the judge what their legal claims are and gives the judge evidence to prove the claims. Parties also have the right to have witnesses testify and to cross examine (ask questions) of the other side witnesses. The judge's role is to decide a case on its merits. Although is permissible for a judge to suggest that a particular settlement makes sense, a judge cannot order the parties to settle a case.

9. How do you tell who won the eviction case at trial?

Decision

After a trial, a judge will make a decision. Sometimes the judge will issue a decision on the spot. Often the judge will take a few days to write up a decision and the court will send it to both parties in the mail.

If the landlord gets the apartment, the court decision will say "possession for the plaintiff." In some cases, the decision may say that the tenant is entitled to possession if a certain amount of money is paid by a particular date; and if money is not paid by the date the landlord will be entitled to possession. A decision will also say whether the landlord or the tenant is entitled to money for any of their claims.

10. Appeal

Appeal

Parties have the right to **appeal** a court's decision within 10 days of the date the decision is entered, which is the day the decision says it goes in effect. If the landlord wins the case and the tenant does not appeal, the court will send the landlord a document called an *execution*. This is the court's final order and gives the landlord permission to have a sheriff or constable move a tenant out.

11. If a tenant loses the eviction, can the tenant ask for time to find an apartment?

Stay of Execution

Yes. A tenant has the right, where an eviction is a "no fault" eviction, to ask the court for more time to find a new apartment. This is called a *stay of execution*, because it puts a hold on the landlord being able to use the execution.

A judge will decide whether, and if so, for how long to grant a stay of execution. The court may grant a stay of execution of up to 12 months if the tenant is elderly or handicapped,, and up to 6 months in all other cases. If a stay is granted, the tenant is required to continue to pay rent as determined by the court.