

The Eviction Process

Here are some general guidelines regarding The Eviction Process. It will help you understand what the procedures are to carry out an eviction.

1. A landlord must take a tenant to court to evict them
2. Without proper wording in your lease a demand for rent must be made and court action can be started 11 days after formal demand is made. According to Aaims lease the tenants waive the statutory 10 day grace period and court action can be started as early as the 7th of the month.
3. ***The landlord starts the court action by filing a “Complaint in Summary Ejectment”*** with the Small Claims Court by seeing a Magistrate. The filing fee to be paid to the clerk of courts is \$96.
4. Once obtained, the landlord takes the complaint process to the Sheriff’s Office, along with a separate stamped envelope for each address to be served, along with a **\$30** fee for each person named on the summons.
5. The tenant must be served with the “Complaint in Summary Ejectment” and the “Summons” by the Sheriff’s Office before the court date. ***The summons will state the date, time and place for the Small Claims court hearing.*** Both sides may have an attorney, may present evidence, and may subpoena witnesses.
6. Once the Magistrate makes a decision, the losing party has ten days to appeal for a new trial.
7. During those ten days, the landlord cannot make the tenant move.
8. If the tenant does not appeal within ten days, ***the landlord must obtain a “Writ of Possession of Real Property” signed by the Clerk of the Court.*** List the known tenants by their full name, adding, “and all others” as persons to be evicted. The landlord takes the Writ to the Sheriff’s Office and pays the processing fee. This Writ directs the Sheriff’s Office to physically remove the tenant and the personal property from the premises.
9. The writ is assigned to a Deputy in the Civil Unit of the Sheriff’s Office. The deputy will call the landlord within the next few days, to set a date and time to carry out the eviction. **The date set for the eviction should be no later than 7 days.** Some holidays may interfere with this. The tenant is notified by the Sheriff’s Office of the eviction. A copy is mailed to the address, and a copy is either served personally, or posted at the address. **The landlord or a representative must be present at the eviction.** On the day of eviction, the tenant is removed from the residence. The locks can be changed at this

time. If property is left behind, the landlord must not dispose of the property for at least ten days, and must comply with the statutory requirements. The property can be moved, but stored in a secure place, if the writ is executed. After the ten days, the landlord can dispose of the property, if he/she has complied with the statutory requirements.

10. The door will be posted with a “No Trespassing” sign by the Sheriff’s Office. If the tenant or others evicted either break and/or enter, back into the residence, call the Sheriff’s Office. If they are found in the residence, the deputy can arrest them for trespassing. If they have come and gone, the landlord can go see a criminal magistrate and try to obtain trespassing charges based on a sworn statement provided by the landlord. A warrant or criminal summons may or may not be issued.
11. If you, the landlord, decide to let the tenant remain in the residence, this entire process will have to be repeated to evict them in the future.