



## FACT SHEET

### EVICCTIONS

#### WHAT IS AN EVICTION?

An eviction refers to the legal process that a landlord has to use to have a tenant removed from the rental property and/or to collect back rent. In Missouri, there are two main types of eviction actions:

One type of action, a “**Rent and Possession**” eviction, occurs where the tenant owes rent to the landlord. If a tenant is behind on paying any portion of the rent, the landlord can file for eviction. Even if a tenant is just behind on one month or a part of one month's rent, the landlord can attempt to have them evicted. In this type of action, the tenant (the defendant) can have the case dismissed by paying all rent due plus court costs. The tenant can make this payment any time before the trial or any time on the day of the trial, even if the judge has already ruled.

The second type of action, “**Unlawful Detainer**” eviction, occurs where the landlord has terminated the tenancy, but the tenant remains in the property as a “holdover” tenant. In this type of action, the landlord is generally required to give proper notice of his/her intent to terminate a tenancy prior to filing for the eviction. Unlike a Rent and Possession eviction, this type of action does not offer the tenant the opportunity to pay back rent and court costs and stay. If the landlord wins the judgment, the tenant will have to move.

#### WHAT HAPPENS IN AN EVICTION?

1. *For an Unlawful Detainer eviction:* the landlord must give written notice of his/her intent to evict you. The landlord must provide proper notice: either for an entire lease term, usually 30 days, or for another time period as stated in the lease. After providing the notice, the landlord must refuse to accept rent during that period of time before filing an Unlawful Detainer action with the court. *For a Rent and Possession eviction:* if the tenant is behind on rent, the landlord need not provide written notice that the rent is past due. The landlord may file a Rent and Possession action in court at any time after rent is due.
2. The landlord files for eviction with the court.
3. The tenant is summoned to court. The written summons will either be posted on the door of the tenant's unit or delivered in person to the tenant or a family member of the tenant living in the property. The summons will include the court date.
4. The hearing occurs. At the hearing, the tenant will have his/her chance to give his/her side of the story. If there have been repair or safety issues on the property, the tenant should file an affirmative defense/counterclaim with the court prior to his/her court date. Upon filing the affirmative defense/counterclaim with the court, the court may ask the tenant to escrow – pay into the court – the rental amount that the landlord has claimed is due. Then, on the day of trial, the tenant may bring pictures, copies of letters to the landlord, inspection reports, or any documentation to show the judge. While the tenant may still be evicted from the premises, under certain circumstances, certain judges might be willing to forgive some of the back rent if the landlord has not been taking care of the property.
5. If the summons was only posted on the door, then the landlord can only win possession of the premises if the tenant does not appear at the hearing, meaning s/he can only get the tenant removed from the property and cannot necessarily be awarded the back rent as well. If the summons was not personally served, and the landlord wants to get the back rent, s/he would have to file a separate action at this point.
6. If the landlord does win the hearing and gains possession of the premises, the tenant has ten (10) days in the property before the landlord can file for the actual eviction order.

***NOTE: This document is for informational purposes only and does not constitute legal advice. For legal advice, contact an attorney.***

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7. *For a Rent and Possession eviction: **Pay and Stay***: the tenant has the right to remain in the property by paying the full amount of the money judgment plus the court costs to the landlord within the ten days after the judgment date.
8. After the landlord gets the eviction order, a notice will be posted on the door of the property notifying the tenant that s/he needs to leave and that the sheriff will be out. Even though the landlord can get the eviction order ten days after the hearing, the sheriff's office schedule may not allow for the eviction to occur right away. To find out for certain what day the sheriff will be out to the property to perform the physical eviction, call the sheriff's office. If you find yourself on the losing end of an eviction hearing, do not wait until the sheriff comes to the property. If possible move out before the sheriff is scheduled to come because your possessions will be physically removed from the property.
9. *For a Rent and Possession eviction*: the tenant may file an application for a trial de novo ("a new trial") within ten days of the judgment date. However, filing for the trial de novo will not stop removal from the property by the sheriff unless you pay a bond for rent and court costs.  
*For an Unlawful Detainer eviction*: the tenant may file an appeal of the judge's decision in favor of a landlord. The notice of this appeal must be filed within 30 days of the judge's decision. Filing for the appeal will not stop removal from the property by the sheriff unless you pay a bond for rent and court costs.

If you need help with a housing search or have further questions please call EHOC at 314-534-5800.

**NOTE ON FAIR HOUSING**

Although we sometimes help with conflicts between landlords and tenants, EHOC's mission is to work to ensure equal access to housing and places of public accommodation for all people through education, counseling, investigation, and enforcement of the local, state and national fair housing laws. These laws prohibit discrimination on the basis of race, color, religion, national origin, gender (sex), disability or because you have children under 18, and in some instances because of ancestry, marital status, age (over 40), military status, sexual orientation and source of income.

If you feel that your dispute with your landlord is due to a prohibited reason as listed above, please alert us immediately for counseling or action at no charge to you. If you encounter discrimination and don't report it, it is likely that others will be discriminated against in the future.

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