

# LANDLORD TENANT RESIDENTIAL EVICTION

## GENERAL INFORMATION NOTICE

*Information or forms provided the Clerk of Circuit Court should be considered as basic procedural information only and may not be applicable to every situation. The information is not intended to be used as legal advice. If you have questions or concerns about these forms, instructions, commentary, the use of the forms or your legal rights, it is strongly recommended that you talk to an attorney. Because the law does change, the forms and information about them may have become outdated, you should be aware that changes may have taken place in the law or court rules that would affect the accuracy of the forms or instructions.*

## Starting the Eviction Process

An Eviction action cannot be filed unless the tenant has first been given a written notice. The notice should be done in triplicate and the original hand delivered, or if the tenant is absent from the premises, by leaving a copy thereof at the residence or mailed to the tenant.

## UNPAID RENT

### Three-Day Notice

If the tenant **has not paid the rent**, the landlord is required to give a three-day notice in writing to vacate the premises or pay the rent. (Please state the full amount due.) After three full days (excluding Saturdays, Sundays and legal holidays) have elapsed from the date of the notice (not counting the date the notice is delivered to the tenant), if the tenant has not complied with the notice, the landlord then comes to the Clerk's Office and files the complaint for eviction of the tenant. Copies of the lease (if one exists between the parties) will also be required when filing. This type of eviction may be filed by the owner, an agent of the owner **with written authorization**, or an attorney for the owner. *Fla. Stat. 83.56 (3).*

*NOTE: If the tenant contests the eviction, the landlord's agent may take no further action and all further activity in the case must be handled **only** by the owner or an attorney at law. Corporate owners **must** be represented by an attorney if this type of eviction is contested.*

## BREACH OF LEASE THAT CAN BE CORRECTED

### Seven-Day Notice with Cure

This type of notice is used if the landlord has a lease and a tenant who is undesirable but the situation could be remedied (i.e., unauthorized pets, guests or parking, etc.). The notice states the non-compliance and gives the tenant seven days to correct the problem or to vacate the premises. The tenant would be allowed to stay if they complied. If they do not comply, then the landlord may file a complaint for eviction based on the notice given. This type of eviction must be filed by the owner or an attorney for the owner **only**. Corporate owners **must** be represented by an attorney. *Fla. Stat. 83.56 (2)(a).*

## **BREACH OF LEASE THAT CANNOT BE CORRECTED**

### **Seven-Day Notice without Cure**

If a tenant is undesirable with a serious non-compliance (i.e., destruction, damage or misuse of property, unreasonable disturbance, etc.), the notice informs the tenant that the rental agreement is terminated and no further rent will be accepted. It also lists the items of non-compliance. If the tenant has not moved in seven days, the landlord may file eviction proceedings. This type of eviction may be filed by the owner or an attorney for the owner **only**. Corporate owners **must** be represented by an attorney. *Fla. Stat. 83.56(2)(b)*.

## **TERMINATION OF AGREEMENT**

### **Fifteen-Day Notice**

If the landlord has **no written lease** and wants possession of his property and it is not for any of the above reasons and the rent is paid on a month-to-month basis, he may give the tenant a fifteen-day notice to vacate the premises. The notice would state that the rental agreement is terminated and that no further rent will be accepted. This notice should be given fifteen days prior to the rent next being due. If the tenant does not vacate, the landlord files his complaint for eviction. If a written lease agreement has been entered into, this section does not apply. This type of eviction may be filed by the owner or an attorney for the owner **only**. Corporate owners **must** be represented by an attorney. *Fla. Stat. 83.57*.

## **Filing the Eviction Court Case**

If the tenants have not moved or **have not paid their rent** within the time specified on the notice, you may file an eviction court case to evict the tenant(s). Choose, complete and file one of the complaint forms contained in this packet. The filing fee for evictions is \$185.00 plus \$18.00 for each tenant. Please make all checks for the filing fees payable to the **Wakulla County Clerk of Circuit Court**. After the landlord files his/her Complaint for Eviction, a summons is prepared and sent to the Sheriff's Office to serve on the tenant for a fee of \$40.00 **per tenant named**. In an eviction complaint with damages, two different summonses are served on the tenant. The sheriff's service fee is to be paid by money order or check made payable to the **Wakulla County Sheriff's Office**.

The landlord will be required to furnish to the Clerk of Court TWO (2) copies of the notice and TWO (2) copies of the lease (if applicable) if **ONE** tenant is being evicted. **If there is more than one tenant**, an additional copy of the notice (and the lease if applicable) for each additional tenant will be required.

**NOTE:** An agent for owner, **with written authorization of owner**, may serve the notice and file the complaint. Owner or owner's **attorney** is required to sign motions for default and motions for default judgment. If a hearing is held, Owner or owner's **attorney** is required to attend.

***NOTE:** If the landlord mails the three-day notice, the tenant will be permitted to respond by mail. This will increase dramatically the time period in which the tenant is required to pay rent. First, an additional five days for mailing will be added to the letter sent by the landlord to the tenant. An additional five days for mailing will be added to the letter sent by the tenant to the landlord. Thus, instead of three days for the tenant to pay the rent or vacate, it ends up becoming thirteen days (three days to pay the rent and five days each for the landlord's and tenant's letters.) Florida Res. Landlord Tenant Manual 3.01[1] [a] [IV].*

### **What Happens After The Tenant Is Served?**

The tenant has five (5) working days after being served in which to answer in writing to the Court why he/she thinks he/she should not have to move.

In an action by the landlord for possession of dwelling unit, if the tenant introduces any defense other than payment, the tenant is required to pay into the registry of the Court the accrued rent as alleged in the Complaint for Eviction or as determined by the Court and the rent which accrues during the pendency of the proceeding when due.

If the tenant moves in the time allowed by law after being served or pays the rent, the landlord should notify the Clerk's office in writing so the case may be dismissed and closed. Judgment may be entered if the tenant moves owing rent and has not offered written defenses to the Court, if personal service has been perfected.

If the tenant answers in writing and deposits the rent demanded into the registry of Court (if applicable) before the time allowed by law has elapsed, the case may be scheduled for an eviction hearing before a Judge. At the hearing, the Judge will rule on whether the tenant has to move and if so, when the tenant is to move.

If the tenant does not move or does not answer as stated above within the time allowed by law, the landlord is entitled to a default. The landlord must formally request the Clerk enter a default by filing a Motion for Default.

The default is then entered and a proposed Final Judgment is forwarded to the Judge. If the judgment is signed, the landlord will be entitled to a Writ of Possession five days after the Final Judgment is entered. The landlord will then need to take the Writ of Possession to the Sheriff's Office and set up the time for the Writ of Possession to be served. **The Sheriff's fee to serve the Writ of Possession is \$90.00.** As soon as the Sheriff's Office receives and serves the Writ of Possession, the tenant will have 24 hours to vacate the premises.

**Landlords wishing to evict tenants who own mobile homes from a mobile home park should refer to Florida Statutes 723.002/723.061.**

Wakulla County Clerk of Circuit Court  
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