

HOUSING LAW - What is Lawful Eviction

1. Lease Termination or Demand to Vacate

If your landlord is seeking to terminate your lease, then your landlord must give you a written notice of lease termination.

In the written termination notice, your landlord must state the *specific* reasons for the lease termination or non-renewal, and your landlord must give you at least ten days to vacate before seeking to enforce the demand to vacate.

2. Lock out is Illegal

If you did not vacate by a demand to vacate date, this does **NOT** mean that your landlord has the legal right to change your locks or to take other self-help eviction actions against you such as disconnecting your utilities, etc.

3. Court Eviction Order

Your landlord may only legally enforce a demand that you vacate and evict you **by obtaining a court order**. To lawfully enforce the demand that you vacate, your landlord **must go through the judicial process**. Judicial process means a court process. **Your landlord must obtain a court order to lawfully evict you.**

4. Unlawful Detainer Lawsuit

- To obtain an eviction court order, your landlord must first file an unlawful detainer eviction lawsuit against you. Before filing the lawsuit, your landlord must wait until **AFTER** the demand to vacate date has passed.
- You will know if your landlord files an unlawful detainer eviction lawsuit against you because you would receive a summons to court. You would receive this summons either through the mail, posted on your front door, and/or hand-delivered to you by sheriff or special process server. You may also check the public internet site “Case.net” to see if your landlord has filed an eviction lawsuit against you.

Please note: Your landlord’s **filing** of the lawsuit alone does **not** mean that you are legally evicted.

- To obtain a court order for your eviction, your landlord must prevail in court after a trial or because you consent to a judgment. In the event of a trial, the landlord will present its evidence to the judge. At trial, you have the right to assert your defenses, to testify, and have witnesses testify. If the judge rules in your landlord’s favor, the judge will issue an eviction court order against you. If the judge rules in your favor, then the judge will dismiss the eviction lawsuit.

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5. Rent and Possession

- If your landlord alleges that you owe rent, your landlord does **NOT** have to give you a lease termination notice. Rather if your landlord alleges you owe rent, then your landlord could file a rent and eviction lawsuit against you without a demand that you vacate.
- In a rent and possession lawsuit, your landlord is alleging that you owe rent and that because you owe rent, the landlord is asking for a court judgment against you for the rent (and other lease charges) **and** a judgment for possession of the dwelling, (the eviction court order).
- The landlord must prove to a judge that you owe rent in order to obtain a court judgment against you for the money owed and possession of the dwelling.
- You have the right to “Pay and Stay” and defeat the eviction if at any point prior to the trial, you tender to the landlord all rent that the landlord is alleging you owe plus court costs.
- Your landlord may ask you to sign a consent judgment. Do not sign this unless you understand and agree to it, and it has a “stay of execution”. The consent judgment will be signed by the judge and becomes a court order for your eviction if you fail to pay as agreed in the consent judgment.

Moving From Leased Dwelling to Avoid an Eviction Lawsuit and Court Order

Whenever you move from a leased property, be sure to do the following:

- Remove ALL of your belongings
- Clean the dwelling
- Take MANY photographs of EACH room to show the good condition you left the dwelling
- Obtain a written, dated and signed key receipt when you return the keys to the landlord, which you should do as soon as possible after you vacate.

Please note: You are under no moral or legal obligation to notify a former landlord of your new home address or work address. If a former landlord requests your new address, give a PO Box address or other address where you do not live or work.