

## INTRODUCTION

Florida law strictly regulates eviction practices. A landlord must follow all the Requirements of law to properly evict a tenant. Before eviction, the following must take place:

- The tenant receives a written notice to vacate;
- The tenant is served a summons and complaint by a sheriff or authorized process server
- The tenant is allowed an opportunity to respond (in some cases, this may include a court hearing);
- A Writ of Possession is posted.

If your landlord is trying to evict you without going through the procedures above, he or she is breaking the law.

To force a tenant to move, landlords sometimes shut off water, electricity or gas, or change the locks on the door. *These kinds of tactics are illegal.*

If your landlord attempts to do any of these things to get you to move, immediately contact the police, sheriff and/or a lawyer.

Florida law says that a landlord who engages in one of these prohibited practices can be liable to the tenant for damages for up to three months' rent. You will have to take the landlord to court to recover these damages.

## About Community Legal Services of Mid-Florida (CLSMF)

*The mission of CLSMF is to provide access to justice through high quality legal assistance to low-income persons.*

CLSMF is a nonprofit legal aid organization which provides free legal assistance to low-income people with civil legal problems in twelve counties across Central Florida. Since 1966, dedicated CLSMF lawyers, paralegals, legal assistants and advocates have worked diligently to solve civil legal problems for people facing life-changing situations, such as domestic violence, unlawful eviction, or the loss of veterans' health or public benefits. We are committed to delivering the highest quality legal aid, with dignity and respect, for those who are seeking access to justice.

*\*We do not provide legal assistance in criminal or traffic matters*



The Florida Bar Foundation, with *Interest on Trust Accounts* program funding, provides support for this service.

## Community Legal Services of Mid-Florida Offices

**\*BREVARD:** 1-866-469-7444

**CITRUS & SUMTER**

106 N. Osceola Avenue, Inverness, FL 34450

(352) 726-6592 — CITRUS

1-800-984-2918— SUMTER

**FLAGLER:** 1-800-405-1417

**HERNANDO:** 1-866-801-5566

**LAKE:** (352) 343-6351

226 West Main Street, Tavares, FL 32778

**MARION:** (352) 629-6257

1610 SE 36th Avenue, Ocala, FL 34471

**\*ORANGE** (407) 841-7777

122 E. Colonial Drive, Suite 200, Orlando, FL 32801

**OSCEOLA:** (407) 933-1791

800 North Main Street, Kissimmee, FL 34744

**PUTNAM:** (386) 385-0928

216 S. 6th Street, Palatka, FL 32177

**\*SEMINOLE:** (407) 322-6673

315 Magnolia Avenue, Sanford, FL 32771

**VOLUSIA :** (386) 258-5600

128 Orange Avenue, Daytona Beach, FL 32114

**Client toll-free number:** 1-800-363-2357

**ADMINISTRATIVE OFFICE:** (386)523-9181

*\*Certain legal services not offered*

info@clsmf.org

**Apply for help online at:**

**www.clsmf.org**



## Evictions

### What Every Tenant Should Know

This brochure is for general education only. It is not intended to be used to solve individual problems. If you have specific questions, see an attorney. CLSMF offices are listed on the back in this brochure.

## Steps in a Legal Eviction

There are certain steps a landlord MUST take in an eviction action. A landlord cannot force a tenant to move without going through these procedures:

### 1. Written Notice

- A. Nonpayment of rent. To evict a tenant for nonpayment of rent, the landlord must first deliver to the tenant a written notice stating that the tenant has 3 days (not counting the day the notice is given, weekends, or holidays) to pay the rent or vacate. If the tenant offers the full rent within 3 days, the landlord must accept it. However, the landlord need not accept less than the full amount owed.
- B. Eviction for cause: The landlord may evict a tenant for violations of a written lease agreement such as excessive noise, property damage, failure to keep the premises clean and sanitary, etc. The landlord must give the tenant 7 days written notice specifying the violation(s) and warning the tenant of the intent to end the lease.

If the violation by the tenant is serious or reoccurs within 12 months of a written warning by the landlord, the tenant may be required to vacate in 7 days. However, if the violation is not serious and can be remedied, the landlord must allow the tenant 7 days to take care of the problem. If the problem is solved, the landlord cannot evict for that incident.

C. Termination of rental agreement: If the lease is not for a specific length of time or if there is no written lease, a landlord may end the lease without reason by giving proper notice. If rent is paid monthly, the notice must be given at least 15 days before rent is due. If rent is paid weekly, the notice must be given at least 7 days before rent is due. Termination notices must be in writing.

### 2. Summons and Complaint

If the tenant does not pay rent owed after receiving a 3-day notice or does not take care of the problem within 7 days after receiving a 7-day notice and opportunity to cure or if the tenant fails to move out after the lease is terminated, the landlord may file a complaint with the Clerk of the Court. The complaint and a summons are served upon the tenant by the sheriff or authorized process server. These legal papers may be posted on the tenant's door (if the paperwork is also mailed to the tenant by the clerk) after two unsuccessful attempts to serve the tenant in person.

### 3. Filing a Complaint for Eviction

Since 1993, property owners, attorneys, and property managers may file a complaint for eviction. However, if the property manager files the complaint and the tenant files an answer, the eviction proceeding must stop until the owner or an attorney becomes involved. This is also true for an owner who lives out of state.

### 4. Response by tenant

The tenant has 5 days to answer the complaint. The days are counted based on the date of service by the sheriff or the date of posting on the door, not by the mailing from the clerk. The 5 days begins on the date after the tenant was served and does not include weekends and legal holidays.

A written answer setting forth proper defenses to the eviction must be filed with the Clerk of Court and a copy must be mailed to the landlord within the same 5 days. The tenant must also deposit with the court the amount of rent alleged in the complaint to be owed unless the defense is that the tenant has paid the landlord.

If the tenant does not answer, or fails to deposit this rent, the landlord is entitled to an immediate default judgment, which means the landlord wins.

If the tenant disputes the amount of rent owed, he or she must file a written motion to determine the amount of rent to be paid into the registry along with the answer. The motion should state the reason why a different amount should be deposited and ask the judge to decide the correct amount. Any receipts or documentation must be attached to the motion. At that point, the judge may schedule a hearing to determine the correct amount. A tenant must deposit their monthly rent with the court as it comes due during the eviction proceeding.

If you are served with a complaint, you should immediately contact a lawyer. You should not wait until the fourth or fifth day since that would not allow adequate time to prepare a defense.

### 5. Court hearing

If the tenant files an answer and deposits rent with the court or files a motion to determine rent and no default judgment is issued, either the tenant or the landlord may set a date for a hearing before the judge. If neither party schedules a hearing, the judge will.

The parties will be notified of the time and place of the hearing, and they will have an opportunity to present their cases. If the landlord wins, the landlord will obtain a Judgment for Possession. If the tenant fails to attend the hearing, the landlord wins automatically.

### 6. Eviction

If the landlord wins (either by default or after a hearing) and obtains a judgment for possession, the court will issue a writ of possession to the sheriff. The sheriff then posts the writ on the tenant's premises. The tenant has 24 hours to vacate, after which the sheriff or landlord may forcibly evict the tenant and padlock the door, with or without the tenant's belongings inside. The landlord may impose a lien on the belongings up to the amount of rent due.