

TERMINATING A LEASE, RENT ISSUES, & EVICTION

WHAT IF I CAN'T PAY MY RENT?

The landlord may evict you for non-payment of rent. However, there is a legal procedure landlords must follow before they can actually put a tenant out. A landlord must first serve a pay or quit or material non-compliance notice, then file an unlawful detainer with the General District Court; then, if the landlord gets possession of the apartment in court, he/she must file an eviction notice with the sheriff. It is always a good idea to show up in court, even if you do not have the rent money. Your presence in court may delay eviction proceedings. If you are being evicted, you must be served an eviction notice from the sheriff's office. This eviction notice is valid for one year, as long as the landlord informs you he/she is "accepting the rent with reservation" every time the rent is paid. If you think you are being evicted illegally, call Legal Aid or a lawyer. Also, if you pay all the amounts owed (rent, fees & costs) before your court date, the unlawful detainer action must be dropped. This is called the Right of Redemption and is available one time in any 12-month period.

UNTIL YOUR COURT-ORDERED EVICTION DAY, THE LANDLORD HAS NO ADDITIONAL RIGHTS TO YOUR PROPERTY. THIS MEANS HE/SHE CANNOT TURN OFF UTILITIES, CHANGE LOCKS, OR ENTER THE PROPERTY WITHOUT NOTICE.

THIS IS THE RIGHT OF REDEMPTION EXCERPT FROM 55-243 OF THE CODE OF VIRGINIA:

A. If any party having right or claim to such land shall, at any time before the trial in such ejectment or before the first court return date in an action of unlawful detainer seeking possession of a residential dwelling based upon default in rent, pay or tender to the party entitled to such rent, or to his attorney in the cause or pay into the court, all the rent and arrears, along with any reasonable attorney fees and late charges contracted for in a written rental agreement, interest and costs, all further proceedings in the ejectment or unlawful detainer shall cease.

GIVING NOTICE/TERMINATING A LEASE

It should be stated in your lease how far in advance you need to give notice to move. Remember that in most leases, you may only give notice at the end of the lease period. In other words, if you have a yearly lease running from 9/1/2011 to 8/31/2012 and your lease states that a 60 day notice is required, you need to notify your landlord IN WRITING by the end of June 2012 that you wish to move. If you don't, you may be liable for another year's lease. Also, if the landlord is giving you notice that your lease is not renewing, and it is proper notice as stated in the lease, the landlord does not have to have a reason to terminate. Neither you nor the landlord can change any terms of the lease in the middle of the lease period without a mutually signed agreement. If you pay your rent weekly or monthly and do not have a lease, you are usually required to give notice either a week or a month ahead of time. For instance, if you are renting a place by the week, you would need to give a week's written notice to vacate. The landlord is also required to give you a week's written notice if he/she wants you to vacate. Remember, if you move out or get evicted before the end of your lease term, you may be held responsible for the rent for the entire lease period. For instance, if your lease runs through September and you get evicted or vacate the apartment in May without the landlord's consent, you will still owe for June, July, August, and September. However, if the landlord re-rents the property, you would no longer owe rent for the months after the apartment is re-rented. A landlord cannot collect rent twice for the same property.

WHAT IF MY LANDLORD WANTS TO EVICT ME?

If your landlord thinks you have violated the terms of the lease (examples: making excessive noise, having unauthorized people living there, having a pet without permission), he/she may pursue legal action in court to have you evicted. Before taking you to court, the landlord must issue a notice notifying you of the problem and giving you 21 days to correct it. The notice should say that if you do not correct the problem within 21 days, you must move out within 30 days. (You may still be responsible for the rest of the lease even if you do move out). After those 30 days, the landlord may file an unlawful detainer against you. This will be a summons to court. When you go to court, the landlord will try to prove how you violated the lease, and try to get the judge to grant him/her possession of the property. If possession is granted, the landlord may file an eviction with the sheriff ten days after the court date, provided the tenant showed up for court. If the tenant does not show up in court, the landlord may file for an immediate possession. (If the nature of the tenant's violation poses a safety threat to others, the process may be much quicker.) If you receive a lease violation notice, correct the problem, and then commit the same violation again, the landlord does not have to give you another chance to correct it. He/she can simply give you notice that your lease will terminate. However, the landlord still has to file an unlawful detainer and prove the violation in court.