Eviction for non-payment of rent
by: Legal Aid Services of Oklahoma, Inc.

What is Eviction?

Eviction is a legal procedure a landlord uses to get you out of your home. If you do not pay your rent, your landlord can have you evicted. To evict you legally, the landlord must follow certain steps.

What are the steps in an eviction for non-payment of rent?

1. Landlord gives you written notice
2. Five-day grace period
3. Landlord files suit
4. You are served with summons
5. Court hearing
6. Judgment
7. Move-out period
8. Landlord takes back the property

THE FIRST STEP - <u>WRITTEN NOTICE</u>

Before filing an eviction case in court, the landlord must give you written notice to pay your rent. The notice does not need to be notarized or be written in any special form. The notice does not need any special language. Often, the notice tells you to pay your rent within a certain time or move. The landlord must give you the notice in one of three ways:

1. The landlord can hand you the notice in person;

2. If you cannot be found, the landlord can give the written notice to any family member over 15 years old who lives in your home; or

3. If no one is at the home, the landlord can post the notice on your door and send you a copy by certified mail.

THE SECOND STEP - <u>GRACE PERIOD</u>

After you get the notice, you have a 5-day grace period before the landlord can evict you. If you live in public housing, you have a 14-day grace period. If you pay the landlord *all* of the money you owe *before* the end of the grace period, then you cannot be legally evicted for non-payment of rent.

If you pay your rent during the 5-day grace period, make sure you get a receipt that shows the date you paid, the amount paid, and that you have "paid in full." You want to be able. The receipt proves you paid if the landlord still tries to evict you.

If you cannot pay your rent within the 5-day grace period, decide whether you want to pay your rent at all. <u>You may want to use the money you have to pay for your move</u>. If you pay your rent after the 5-day grace period has expired and you want to stay, make sure you get a receipt that says "landlord agrees not to seek eviction."

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Remember, if you cannot pay your rent before the grace period ends, get out as quickly as you can. Do not waste time.

THE THIRD STEP - STARTING AN EVICTION LAWSUIT

The landlord must file a lawsuit in court to force you out of your home. An eviction lawsuit is called a "Forcible Entry and Detainer" action. Usually, the landlord files the lawsuit in Small Claims Court. After the landlord files suit, you will receive notice of the lawsuit and get a chance to appear in a court hearing before a judge. The landlord can ask the judge for any and all of the following:

- All the rent owed plus late charges;
- The cost of repair to the property;
- Any other costs which result from your failure to pay rent;
- Court costs; and
- Attorney fees.

The judge may order you to pay these costs in addition to evicting you from the property.

THE FOURTH STEP - SUMMONS (NOTICE)

The Summons is your notice that an eviction hearing is set for a certain time and date. If you get the Summons less than three days before the hearing date, you can ask the judge to reschedule the hearing. If the judge agrees to reschedule, you will have a few more days to move out or get legal help.

The landlord must deliver the Summons and copies of **all** the papers filed in the lawsuit. When the papers are delivered, they have been "served." You can be served in one or more of the following ways :

- In person by a process server or a sheriff's deputy at least 3 days before the hearing date;
- If you are not home, the papers may be left with anyone over 15 years old who lives at your home;
- By certified mail, restricted delivery, return receipt postmarked at least 3 days before the hearing date.
- If you can not be found, service can be by publication in a newspaper of general circulation in the county in which you live; or

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- You can be served by having the sheriff or private process server post the summons on the property at least five days before the hearing **and** sending you a copy of the summons by certified mail, with a return receipt postmarked at least five days before the hearing date.

Notice by publication or by posting allows the landlord get the property. However, if you fail to show up for the hearing, the judge cannot award money damages against you.

THE FIFTH STEP - HEARING

Many times the judge will ask you to try and work things out with the landlord before the hearing. **If you and the landlord reach agreement, both of you should tell the judge or the judge's clerk that you have settled your dispute, and what your agreement is**. Do not leave the courthouse before you tell the judge about your agreement. Do not rely on the landlord to tell the judge for you.

If you and the landlord cannot agree, then there will be a hearing. At the hearing, the judge will ask if you got notice and if you paid your rent. Tell the judge if you did not get the written notice or if you paid your rent in full during the grace period. Then show the judge your receipt.

THE SIXTH STEP - JUDGMENT

If the landlord followed the steps and you owe money for rent, the judge can order you to move immediately. The judge may also enter judgment against you for past due rent, damages, court costs and attorney's fees. Once the landlord has a judgment against you, he or she can garnish your wages or bank account to pay what you owe.

THE LAST STEP- MOVING OUT

The landlord must give you a 2-day (48 hour) notice to move out after the hearing. The landlord can give you the notice or send the sheriff to give the notice to you. *It is **extremely important** that you move out before the two days are up.*

If you do not move out within the two days and the landlord takes back the property, you risk losing everything you have left in the home. If you are pressed for time, take your important papers and most valuable things first, along with any personal property you cannot replace. The landlord can lock up anything you leave, throw your belongings out on the curb, or put things into storage. The landlord can also charge you storage costs. If you do not pay the storage costs, the landlord or the storage company can sell your property.

Contact an attorney if you have specific concerns about your situation or for further information about evictions.