



Eviction for Unpaid Rent

Key Points: If your rent is past due, even for only a day or two, your landlord can start the eviction process. Your landlord has to give you a notice demanding you pay or leave, then file an eviction lawsuit in court, and then get a court order permitting eviction. If you are served with an eviction lawsuit, you must timely respond if you want to contest the lawsuit.

WHAT IS AN EVICTION?

An eviction is a lawsuit where a landlord asks a court to remove a tenant from a rental.

THE EVICTION NOTICE (3-DAY NOTICE)

Your landlord has to give you an eviction notice, sometimes called a “3-day notice,” giving you the chance to pay the rent before the landlord can file an eviction lawsuit. The notice has to:

- be in writing,
- state exactly how much money you owe,
- give you at least 3 business days (excludes weekends and holidays) to either pay the money or move out of the rental, and
- have the landlord’s contact information.

In some kinds of rentals, like some public housing or HUD subsidized rentals, the landlord has to give you more than 3 days to come up with the money or leave. If you do not move out or pay the rent in 3 days, your landlord can file the eviction lawsuit in County Court. This means, for example, if your rent is due on the 1st of the month, your landlord can give you a notice to pay or leave on the 2nd, and can file the eviction lawsuit as early as the 6th.

THE EVICTION LAWSUIT

If the landlord files an eviction lawsuit, you will get served with court papers, called the “Summons” and the “Complaint.” The court papers may come in the mail, be posted on your door, or handed to a person 15 years old or older that lives in the rental. The Summons explains what you have to do to respond to the eviction lawsuit. The Complaint explains why the landlord is trying to evict you.

Once you get the court papers, you have to respond within 5 business days if you want to contest the eviction lawsuit. The time to respond does not include weekends or court holidays. For example, if you get the papers on Friday, your answer is probably due the next Friday (7 days minus 2 days for Saturday and Sunday).

RESPONDING TO THE EVICTION LAWSUIT

To respond to the eviction lawsuit, you have to:

- **File your “Answer.”** Your Answer is just an explanation of whether you agree or disagree with the statements made by your landlord in the Complaint. It also needs to include any

legal defenses you think you have (for example, you paid the rent, or the notice is bad, or you lawfully withheld your rent for serious code violations in the rental, etc.). Defenses are the reasons why you should not be evicted.

- On the top part of your Answer, copy the information from the top of the “Summons,” including the plaintiff’s and defendant’s names, the name of the court, the case number and the division.
- Title your writing ANSWER and then write out whether you agree or disagree with each statement in the Complaint. Next, write out your defenses. You have to sign your name and then type or print your name, address, and telephone number, if any, at the end of your Answer.
- If you have any documents that prove what you say in your Answer (like receipts), you should attach copies of those to your Answer.
- **Deposit the rent money the landlord said is owed in the Complaint into the court registry.** If the tenant’s Answer states a defense other than “my rent has already been paid,” the tenant must also deposit into the court’s registry the amount of rent that the Complaint states is owed to the landlord.
 - If another month of rent becomes due while the case is still going, you have to put the money for that month’s rent into the court registry on the due date. You have to keep doing this until the lawsuit ends.
- **File a “Motion to Determine Rent” if you disagree with the amount of rent the Complaint states is owed to the landlord.** A Motion to Determine Rent explains that there is a dispute about how much rent you owe and it asks the court to determine the correct amount you should put into the court registry. For example, if the landlord lists the wrong rent amount or if the Complaint includes amounts that you have paid already. You have to attach documents to your Motion which prove what you are saying (like your lease showing your rent is a different amount, or receipts showing the rent that you already paid). A tenant who is filing a Motion to Determine Rent should go ahead and deposit into the court registry the amount of rent the tenant believes is owed.

For help drafting your response to the lawsuit, you can go to www.floridaevictionhelp.org. Our guided interview will help you draft your response.

Your Answer and Motion have to be filed with the Clerk of the Court in the county where the lawsuit was filed. In Duval County, the Clerk of the Court is located on the ground floor of the courthouse at 501 W. Adams Street, Jacksonville, Florida.

Make two copies of your Answer and Motion. Mail one copy to the landlord or their attorney, whose name and address is on the Summons you got. You keep a copy. If you want to e-file your response, you can set up an account at: <https://www.myflcourtagency.com>.

You must BOTH: 1) file your answer, AND 2) either put the money in the court registry or file your Motion within 5 business days. Otherwise, the court can enter a “Default Judgment” against

you. This means you automatically lose the case and can be evicted without even speaking to a judge.

THE EVICTION HEARINGS

If you correctly filed your Answer, and either paid the rent money into the court registry or filed a Motion to Determine Rent, you should get a hearing with the court.

If you filed a Motion to Determine Rent, the court has to resolve that issue first. The court should schedule a hearing for that Motion first. You must call the judge’s office to schedule a court date for the judge to review the Motion to Determine Rent and to decide how much rent you must deposit into the court registry. You will have to prove to the judge what amount you think, if any, you have to put into the court registry to continue.

You will have to bring copies of any documents you have, and you will have to bring your witnesses. In most cases, affidavits or statements from witnesses are not good enough—the person has to actually be there to speak for themselves. Your landlord will have a chance to reply too. The judge will then decide how much you must deposit into the court registry, and enter an order explaining how much to deposit and giving you a deadline to deposit. If you do not deposit the rent into the court registry by the deadline, the court can enter a Default Judgment against you.

If you have deposited the rent, then the next step is the eviction trial itself. At the eviction trial, your landlord will make their argument for the eviction, and you will make your argument against it. Both of you will give evidence, including your documents and any witnesses. After the trial, the judge will decide whether or not your landlord can evict you.

THE COURT’S DECISION

If the judge refuses to grant the eviction, the court will enter an order dismissing the case and you can remain as a tenant in the rental.

If the judge grants the landlord’s request to evict you, the court will enter an “Eviction Judgment.” After the judgment is entered, your landlord can ask for a “Writ of Possession.” Once they get the Writ of Possession, it will be given to the sheriff. The sheriff will give you a copy or will put it on the door of the rental. It will explain that you have 24 hours to leave. If you do not leave by the deadline, the sheriff will come back and remove you. The sheriff will allow the landlord to change the locks and your landlord may put your things out by the curb.

This fact sheet is for general education only it is not intended to be used to solve individual problems. If you have specific questions contact a lawyer. The laws described here may change without notice. You may find additional resources at: <https://www.jaxlegalaid.org/get-help/self-help/pamphlets-videos/>. Revised October 2023.

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St. Johns County Legal Aid
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FLORIDA EVICTION PROCESS – Ch. 83, Part II

Note: The first step in the process shown below (the 3-day notice from the landlord) only applies in cases where it is alleged that the tenant has not paid rent. Each of the other steps, beginning with the second step (eviction case filed), are the same in ALL eviction cases where a landlord is seeking eviction for any reason.

