



CLEVELAND MUNICIPAL COURT

HOUSING DIVISION

JUDGE RONALD J. H. O'LEARY

Frequently Asked Questions: *Eviction*

1. My tenant has not paid the rent. Do I have to file an eviction with the Court?

Yes. In Ohio, a landlord of residential premises cannot physically remove the tenant from the premises, terminate utilities, or change the locks to encourage a tenant to move from the premises. This is called "self-help," and is illegal in Ohio. A landlord must file a complaint against the tenant, go to court, be granted a judgment, and follow the court's move out procedure to remove the tenant and the tenant's property from the premises.

2. Is it true that the Court does not do move-outs in the winter?

No. The Court may limit the number of move-outs, which may take place around the Christmas and New Year holidays, because of staff availability. The Court, however, performs court-supervised move-outs all twelve months of the year.

3. I understand it may take 60 to 90 days to evict a tenant. Is that true?

For a simple non-payment case, a tenant may be evicted within less than five weeks: The landlord must serve the three-day notice, and then wait three business days. The landlord then files the complaint with the Clerk of Courts. The court date is set for three weeks from the date of filing. Then, if the eviction is granted, the move-out may take place within seven days from the date of hearing. The process in that case would be completed in approximately five weeks. Cases involving eviction for tenant misconduct, termination of a periodic tenancy or tenants on whose behalf the landlord receives a rent subsidy may take longer.

4. My tenant has not paid rent for eight months. Can I get an immediate move-out date?

No. Tenants who are evicted generally are given between seven and ten days to move from the premises. Under very limited circumstances, the Court may shorten that time, for example, when there has been significant police activity at the premises, evidence of drug activity, or evidence that the tenants pose an immediate threat to the health and safety of the landlord or other tenants.

5. In Court, the Magistrates ask if a tenant has a Housing Choice Voucher, or is a "Section 8 tenant." Is the eviction procedure different for tenants whose rent is subsidized?

Yes. Tenants who participate in federal subsidy programs, including the Housing Choice Voucher Program, are afforded special protection under Federal law. The protections vary with the program. For example, some subsidized housing tenants are entitled to written notice of their opportunity to meet with the management, and the opportunity for such a meeting before the landlord may file the eviction action. Most also are entitled to an opportunity to correct their conduct before the landlord may file an eviction action. The specific requirements regarding grounds for eviction, non-renewal of the lease, and notices to be served vary with each of the subsidized programs. A landlord interested in evicting a tenant whose rent is subsidized first should know the type of subsidy involved. Second, the landlord should carefully read the lease and the contract, and all other papers the landlord has signed. Finally, because both federal and state laws apply to subsidized evictions, and the procedures may be complicated, the Court encourages landlords receiving federal rent subsidies to consult with an attorney before filing an eviction against a tenant in a subsidy program.

6. My landlord has refused to make repairs to my apartment. Can I withhold my rent?

No. In Ohio, a tenant whose landlord refuses or fails to make repairs cannot withhold their rent. However, the tenant may deliver to the landlord written notice of the defective conditions or repairs requested. Then, if the landlord does not make the repairs in a reasonable amount of time, the tenant may deposit her rent with the Court. Landlords and tenants can get more information about the rent deposit process from the Housing Specialists on the 13th Floor of the Justice Center.

7. Are move-outs delayed if tenants have children?

In general, move-outs may take place as early as seven days from the date of the court hearing. The Magistrate has the discretion to consider the tenant's circumstances, and extend the move-out by specific number of days. Most Magistrates will extend the move out to ten days if the tenant has children, an elderly parent, or other individual with special needs in the household; however, this extension is not automatic.

8. My elderly parent is being evicted. Are there any special services available for elderly tenants or others with special needs who are being evicted?

The Housing Court does work with the City of Cleveland Department of Aging to assist senior citizens in finding new housing. Senior citizens interested in this assistance should let the Judge, Magistrate or the eviction courtroom Bailiff know of their interest no later than the day of their court hearing. They may also contact the Department of Aging directly at (216) 664-2833. The Court also works with some local agencies to try to assist tenants with mental health issues to either resolve their dispute with their landlord, or work toward a smooth transition to new housing.

9. In Court, the Magistrate recommended that the parties in my case try mediation. What is mediation and would I agree to try it?

Mediation offers parties an opportunity to resolve their dispute without the intervention by the Court. In mediation, the parties sit down with a mediator, who is a neutral third party, and try to reach an agreement regarding their dispute. The mediator helps the parties explore their options, and put their agreement in writing. Many parties find that they can abide by an agreement they help write. In most cases, if the parties wish the agreement may be enforceable by the Court.

The Court, when deciding cases, must decide that one party wins and one party loses. The parties, however, may be able to reach middle ground, which would give both parties some of the relief they are seeking. The Court may recognize from the testimony of the parties that an agreement may be possible. The Court may recommend mediation to those parties. In addition, the Court may suggest mediation when it appears that the parties would be better served by an agreement than a Court judgment. Both parties must agree to participate in mediation.

Mediation is available to landlords and tenants upon request. The Court's mediators are located on the 13th Floor of the Justice Center, and can be reached at (216) 664-6104.

10. What if I have questions about Landlord-Tenant Law or Housing Court procedure?

The Housing Specialists operate the Housing Clinic on the 13th floor of the Justice Center, where they provide landlords, tenants, and the general public with information about housing court procedure, the Ohio Landlord Tenant Act, and the City of Cleveland codified ordinances. The Specialists are not attorneys and cannot give parties advice about pleadings or defenses; however, they are happy to explain court terms and processes, and provide written information and blank forms, as well. The Housing Specialists see people in the Clinic on a walk-in basis Monday through Friday, from 8:30 a.m. until 3:30 p.m.

This document is provided by the Housing Court for informational purposes only. It should not be taken or used as legal advice. The Court's Housing Specialists are not attorneys and will not provide you with legal advice. Each circumstance and case is unique; following the information contained herein does not guarantee a favorable outcome. If you have questions about your particular situation or would like guidance on how you should proceed, you should speak with an attorney.