

Indiana Legal Services, Inc



Using the law to fight poverty, empower clients, and improve access to justice.

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General Information About Eviction

What is an eviction?

An eviction is when your landlord makes you move out of your home, usually by getting an order from a court, but not always.

Does my landlord have to take me to court to evict me?

The landlord should take you to court. Most landlords will file a case in court to evict you. Some landlords, however, may just try to lock you out of the home. Landlords are not supposed to do this, but some do try. If your landlord threatens to change your locks to get you out of the home, you should try to keep someone in the home at all times and call the police if the landlord tries to change the locks.

My landlord has told me I must leave the apartment by the end of the week. What should I do?

First, do not panic if the landlord says you must leave by a certain day. You do not have to leave until there is an order from the court saying you must leave. Landlords can't evict tenants without first going to court and getting an order. Also, landlords cannot change the locks, cut off the utilities, or do other things to try to get you leave.

Generally, landlords can evict you before your lease is up only if you have broken your lease. Common reasons for eviction include the tenant hasn't paid rent or has damaged the property.

You should try to talk to the landlord and see if you can work something out with the landlord to see if the landlord will agree you can stay. If you agree you have broken your lease because you owe money, maybe you can work out an agreement with the landlord to pay what you owe. If you do make an agreement with the landlord, make sure you get it in writing.

What if my landlord wants to evict me and I don't think I have violated any terms of my lease?

If possible, try to talk to the landlord. If you don't think you have violated your lease, you can wait and see if the landlord files an eviction case in court. If the landlord files an eviction case, you will

have to go to court. The landlord will have to prove you violated the lease, and you will get a chance to tell your side of the story. If your landlord has threatened to evict you, you may want to start gathering evidence (such as receipts, etc.) to give to the court to show you have not violated your lease.

What happens if the landlord files an eviction?

Here are the general steps in an eviction:

1. The landlord tells the tenant the landlord wants the tenant to move out.
2. The landlord files a case against the tenant.
3. The tenant receives notice of the lawsuit by certified mail or by the Sheriff.
4. The first hearing is to decide who has the right to possession of the apartment. If the tenant is in violation of the contract (for example, if the tenant is behind in rent), the landlord will have the right to possession and the court will order that the tenant be out by a certain date. (This is usually within a few days of the court hearing; you don't get much time to move). If the court finds the tenant hasn't violated the lease, then the case is over and the tenant does not have to move.
5. There is often a second hearing for the court to decide if the tenant owes the landlord any money. The tenant can also tell the court if the tenant thinks the landlord owes the tenant any money.

Do I need an attorney to represent me?

An attorney might be able to help you in court or help you negotiate an agreement with your landlord. If you cannot afford to hire an attorney, you could apply for legal services at your local legal services program.

If you don't have an attorney, you should still go to court on your own. Most evictions are in small claims court. In small claims court, people often do not have an attorney. The judge will let you tell your side of the story.

What if I am behind in my rent?

If you are behind in your rent and the landlord files an eviction case in court, you will be evicted. There is really no defense for not paying the rent. So, if you lost your job and cannot pay your rent, it is better to try to work out a payment plan with the landlord before you go to court – and, like always, put it in writing.

If you cannot work out anything with the landlord, you should start thinking about where you will move. The courts will generally give tenants only a few days to move out after an eviction hearing.

I am behind in rent; should I just move out?

If you can't work a deal out with your landlord, you may want to go ahead and move if you have someplace to go. If you know you have violated your lease, you may want to avoid going to court. (If you have an eviction on your record, it might be harder for you to find a new place to rent).

Maybe your landlord will agree to let you stay a little longer if you agree to move out by a certain date, and if you can pay some rent money. Get any agreement with your landlord in writing.

If you don't have any other place to go, you can just stay in the home until you go to court and the court says you must move.

What if I live in subsidized housing?

If you live in subsidized housing (where the government pays part of your rent), you may have special rights and the landlord might have special rules to follow.

You should definitely contact an attorney if your landlord is threatening to evict you from subsidized housing. If you are evicted from subsidized housing, you may not be able to get into other subsidized housing.

What should I do when I move out of the housing?

Many times tenants lose their security deposits and even have to pay more money after they move out because of damage done to the apartment. When you move out, the landlord will compare the condition of the apartment with its condition when you moved in. If you have damaged the apartment, you will have to pay for the costs of repairing those damages. But there is a difference between normal use and "damage." For example, stains on the carpet is damage, but dirty carpet on the traffic areas is normal use.

The landlord has 45 days to either return your security deposit or send you a letter telling you what damages you are being charged for. If the landlord does not do this, the landlord cannot charge you for any damages. BUT, you must tell the landlord in writing of your new address. You should keep a copy of this letter.

When leaving the apartment, you should:

1. Leave it clean
2. Tell the landlord in writing of your new address and keep a copy of the letter.
3. Return all the keys.
4. Do an inspection with the landlord.
5. Take pictures or a video of the apartment so that you can have it as proof of the condition when you left.

What else should I do to protect myself?

- Save all documentation and letters you receive or write about the apartment. Save copies of everything.
- Put in writing all "side deals" or agreements outside the original contract.
- Know the terms of the lease.
- Attend all hearings to defend your rights.

What if the court has told me to move, but I don't move?]

If the court has ordered you to move out and you don't move out, the court will send someone (such as the sheriff or local constable) to the home to move your belongings out for you. Your belongings will usually be put in storage, and then you will need to pay for the moving and the storage.

If the court has told you to move, you should make every effort to move out. You should make sure you have your important belongings out of the home.

The court said I have to move, but I don't agree. What can I do?

If the court has issued an order that says you have to move, you don't have many options. You can appeal the trial court's decision to the next level of courts (which is usually the Indiana Court of Appeals). Appealing to the Indiana Court of Appeals is difficult and you should talk to an attorney about this option.

In some counties (such as Marion County), you can appeal the Small Claims Court decision to the county's Superior Court. This is not as difficult as appealing to the Indiana Court of Appeals, but you should still talk to an attorney about this.

There are strict time limits for filing an appeal. If you think you might want to appeal a trial court's decision, you should contact an attorney right away.

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