

The Landlord's Step-by-Step Guide to the Eviction Process

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If you're like most landlords, evictions are a last resort. However, despite the cost and trouble, some evictions are inevitable.

According to a recent White House Summit, the eviction rate in the U.S. was 14% in 2022. This means nearly three out of every 20 tenants were evicted in the past year. It's safe to say that if you didn't experience eviction this year, you will at some point in your landlord career.

When you need to evict a tenant, it pays to be prepared. By understanding the eviction process and best practices, you can save yourself time, trouble and expense. Read on to learn everything you need about evictions, from the basics to a step-by-step guide and the cautions to heed during the process.

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Eviction basics

Eviction, or unlawful detainer, is the legal process of removing a tenant from a rental property. It involves not only physically expelling the tenant, but also the legal documentation, filing and court hearing for eviction.

Evictions are both time-consuming and expensive. An average eviction costs around \$3,500, but the entire process (including legal and court fees, lost rent, repairs and

cleaning, tenant screening, etc.) can total up to \$7,000. Evictions can also take around three weeks to a month or longer to complete.

Due to their costs, you should avoid evictions when possible. Some strategies for preventing eviction include performing thorough tenant screening and automating rent collection.

A caution: Even if it seems easier, never attempt a self-help eviction. You should never try to regain possession of your property without going through the proper legal steps. Instead, carefully educate yourself on the eviction process in your state. If it's your first time evicting a tenant, or if the eviction gets complicated (e.g., your tenant filed for bankruptcy, hired a lawyer, etc.), it's a good idea to have a lawyer walk you through the process.

Reasons for eviction

There are several reasons you might file for eviction. The most common is late rent. If a tenant does not pay on time, and you've waited for any grace periods required by law or included in your rental agreement, it's time to initiate eviction.

Here are the other acceptable reasons for eviction:

- **Lease violations** – e.g., smoking, unapproved pets, subleasing, long-term guests, etc.
- **Property damage** – e.g., graffitied walls, shattered windows, deliberately broken appliances, etc.
- **Illegal activity** – e.g., manufacturing or selling drugs, theft, violence, etc.
- **Holding over** – continuing to live in the unit after the lease has expired.

Step 1: The eviction notice

If you've decided an eviction is warranted, the next step is to deliver the eviction notice.

There are three main types of eviction notices:

1. **Pay-or-quit notices** are for when the tenant has not paid the rent. In general, these notices require you to give the tenant between three and seven days to pay rent before eviction proceedings officially begin. This notice may also be called a **rent demand notice** or **notice for nonpayment**.
2. **Cure-or-quit notices** are for violations of the lease agreement. The tenant generally gets a certain number of days to correct or "cure" the violation before eviction proceedings begin. This notice may also be called a **notice for lease violation**.
3. **Unconditional quit notices** are for severe breaches of the lease or the law (e.g., selling illegal drugs). The tenant does not get any opportunity to correct their violation and must quit the unit immediately or within a few days.

The exact length of each notice varies by state, as does the terminology for eviction notices. In general, a plain "quit" notice does not allow the tenant to correct the violation, while a "pay-or-quit" or "cure-or-quit" notice requires you to wait the number of designated days before filing for eviction.

Remember that quit notices differ from grace periods, which are mandatory in some states. For example, landlords in Tennessee must wait a 5-day grace period before applying late fees and an additional 14-day pay-or-quit period before they

can file for eviction.

Lastly, send the eviction notice by certified mail and also post it on your tenant's front door. This way, you can request a receipt and get confirmation that they received it.

Step 2: Filing for eviction

In many cases, the threat of eviction is enough to resolve the issue. The tenant will often cure their breach or move out without going past the notice stage.

However, if you've delivered the appropriate eviction notice, and your tenant still hasn't cured their breach within the notice period, it's time to officially file for forcible detainer.

After you file a complaint at your local court, an eviction case will be created. The court will set a date for the hearing and send a summons to your tenant, informing them of the eviction case and their hearing date.

Step 3: The hearing and judgment

The next step is the hearing itself. Prepare for the hearing by gathering the necessary documentation:

- The rental agreement
- Proof of the lease violation or nonpayment, such as payment records, bounced checks, photographs or tenant communications
- Copies of the eviction notice and USPS receipt

In essence, bring any documentation that will help prove the tenant's noncompliance and support your case for eviction.

At the hearing, a judge will review the case, look over the

materials you provide and issue a judgment for repossession of the property, assuming the court rules in your favor.

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Step 4: Evicting the tenant and regaining possession

After the hearing, a local sheriff will give your tenant notice to quit within a set number of days (typically several weeks). If the tenant does not move, the sheriff may physically remove them from the property.

Only after the tenant has permanently left the premises can you remove the tenant's belongings, change the locks and re-list the property.

If the evicted tenant still has unpaid bills, you do have options for getting your past-due rent. Your landlord insurance may cover unpaid rent, or you can file a claim in small claims court to retrieve your funds. It's also possible to take the judgment to your tenant's employer to garnish their wages or use a private debt collector.

Eviction mistakes

Despite the carefully designed procedures for eviction, landlords can occasionally get ahead of themselves.

Here are some things you should NEVER do during an eviction:

- **Attempt a self-help eviction:** If you forgo the formal eviction process, you may be required to pay damages or return the entire security deposit.
- **Accept partial payments:** This may delay the eviction process. Once you begin, do not accept any payments from the tenant.

- **Neglect proper notice:** Always wait the appropriate number of days.
- **Remove tenant belongings before the judgment:** Landlords may not infringe on tenant privacy or touch their belongings before the tenant is removed.
- **Shut off utilities or change locks:** Do not turn off utilities or change the locks before the tenant has been removed. These constitute a self-help eviction and are illegal.
- **Harass the tenant:** This is also illegal.

Evictions can be difficult, especially if you know your tenants well. However, you must remember that evictions are not personal, but rather part of running a rental business. Following the steps outlined above will help make evictions as smooth and painless as possible.

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