My landlord told me he's evicting me. What should I expect?

Your landlord cannot evict you without first filing an eviction lawsuit against you in court. The steps for a legal eviction are as follows:

- Landlord must give you a written notice, telling you that he's terminating your rental agreement, and giving you the date by when you must move. Landlord can hand-deliver the notice to you, or mail it.

- Lawsuit. If you do not move by the date given in landlord's notice, then landlord's only option if he wants to force you to move is to file an eviction lawsuit against you in court. <u>It is illegal for landlord to shut off your utilities or have the sheriff come remove you from the rental, without first getting a judge's order of eviction.</u>

My landlord gave me a written notice to vacate. Do I have to move?

No. You don't have to move after receiving a written notice. But if you stay, you run the risk of having to pay landlord's court costs and attorney fees if landlord files an eviction lawsuit against you and wins. Also, if the judge finds that you violated the rental agreement on purpose, the judge can order you to pay up to 3 times the amount of damage that landlord suffered because of your violation.

So I should try to avoid court?

Yes. It's almost always better to resolve the dispute before it reaches court. If your landlord gives you written notice to move, it's a good idea to talk to your landlord. Perhaps you can reach agreement on how long you will stay and how much rent you will have to pay until you move. If you reach an agreement, put it in writing, with each of you signing it.

How many days notice does my landlord have to give?

It depends. If you have a month-to-month rental agreement – whether written or oral – and you have not violated your rental agreement, your landlord must give you 30 days notice to vacate. The landlord does not have to have any reason for asking you to vacate under a month-to-month rental agreement.

For nonpayment of rent, a landlord must give you 3 days to bring your account current, or move.

For an unauthorized pet or person in the rental, a landlord must give you 3 days to get rid of the pet or person, or move.

For destroying the rental, for manufacturing drugs on the premises, or for being involved in gang activity, a landlord must give you 3 days notice to move. You don't get the opportunity to correct your behavior.

For most other violations, a landlord must give you 14 days notice to move.

Can my landlord evict me in the winter? If I'm disabled? If I don't have anywhere to go? If I'm pregnant? If I have a new baby?

Yes. Tenants have no special protections in any of these situations.

What happens after my landlord files an eviction lawsuit?

First, someone will hand-deliver to you a copy of the Summons and the Complaint. These are the papers that the landlord must file in court to sue you. The Summons tells you that you must file with the court a written answer to the Complaint.

Your answer must be filed within 5 days after you are served with the Summons and Complaint. In counting the 5 days, you don't count Saturdays, Sundays, or legal holidays. In your written answer, you must admit or deny each paragraph in the Complaint. Or, if you don't have enough information to either admit or deny a paragraph, you state in writing in your answer that you don't have enough information.

You can ask the clerk of court for a form to use in writing your answer. Make sure that your name, address and phone number is in the top left corner of the answer – the court will use that address in notifying you of the hearing date. After completing your answer, you must sign it and send a copy of it to your landlord or to the landlord's attorney. On or before the 5th day after you were served with

the Summons and Complaint, take your written answer to the clerk of court and ask the clerk to file it.

Is there a fee for filing an answer in eviction court?

Yes. When you file your written answer, the clerk will ask you to pay a filing fee (currently $30.00). If you cannot afford the fee, you can fill out an affidavit, stating your income and assets. Ask the clerk for the affidavit form. If the judge approves your affidavit and finds that you cannot afford the filing fee, you won't have to pay it.

What happens after I file the answer?

The judge will set a hearing date. Be sure and appear at the hearing. Take with you witnesses, photographs, or other documentation to prove why you should not be evicted. After the hearing, the judge will decide whether you're evicted. If you don't move after the judge orders your eviction, the landlord can have a deputy forcibly remove you and your belongings from the rental. You can appeal the judge's decision, if you file a notice of appeal within 30 days. Consult an attorney if you want to appeal.

What happens if I don't file an answer?

The judge will not hear your side of the story and you will be evicted. ALWAYS file an answer within the 5 days, even if you think you've reached an agreement with your landlord.

How do I get more help?

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at mtlsa.org;
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

What help can I find at MLSA?

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

www.MontanaLawHelp.org

Need legal information or forms? Visit www.MontanaLawHelp.org.

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

www.MTLSA.org

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

Montana Legal Services Association

Housing:

Evictions

Providing, protecting, and enhancing access to justice.

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