

HELP! I'M BEING EVICTED.

Typical Eviction Time Line

The number of days can vary depending on the court's schedule and local procedure:

Day 1: Rent due date.

Day 5: Last day to pay to avoid late fee.

Day 6: Landlord issues *written* 5-day "Pay or Quit" notice.

- This must be sent with certificate of mailing or posted at the property by the Sheriff's Department.
- Will state that if rent is not paid within 5 days, the landlord will begin court proceedings.
- Everyone on the lease should be identified and amount due.

Day 12 or 13: Landlord files "Unlawful Detainer" (*note: if notice has been posted, the five days are days 7, 8, 9, 10 & 11; if notice has been mailed, the five days are days 8, 9, 10, 11 & 12*)

- The clerk sets a *return* date that is *usually* 21 days after the filing date.
- The Sheriff will deliver a "Summons for Unlawful Detainer" for the tenant to appear on that date. The landlord is required to mail a copy of the summons to the tenant and to file a statement swearing that the mailing occurred.
- The summons must be delivered at least 5 days before the *return date*.
- If the tenant pays ALL the *rent, late fees called for in a written lease, attorney's fees called for in a written lease (if an attorney is involved) and the court costs* listed on the unlawful detainer *on or before the return date*, the landlord cannot get possession in court. This is only available to a tenant one time in a 12 month period.

Day 33 or 34: Court *return* date:

- Tenant and landlord *may* present evidence why the landlord is entitled to possession of the property. (*If the case is contested, the judge is likely to set it for trial 5-10 days later.*)
- Landlord may ask for back rent, late fees, court fees, attorney fees and property damage.
- If the judge rules the **landlord is not entitled to the property**, the tenant may remain in the property for the full term, so long as the rent is paid on time and the lease agreement is followed.
- If the judge rules the **landlord is entitled to evict the tenant**, the judge will grant the landlord a judgment for possession.
- If the **tenant does not show up**, the judge will automatically issue a default judgment against the tenant. *The Writ of Possession may be issued immediately and once it has been served on or delivered to the tenant, the eviction could take place as soon as 72 hours after service. (In practice, the actual eviction usually takes place 5-10 days after the Writ has been served.)*
- If rent, fees and damages have been awarded, the tenant has 10 calendar days to *file a written notice of appeal in the General District Court* to appeal an eviction to Circuit Court. In order to appeal, the tenant must post bond – *within the same 10 calendar days* – of the judgment granted plus whatever amount of *future rent* the judge decides. (*Typically, this is set at 3-6 months future rent.*)

Day 38 to 44: Last day for tenant to move or be put out by sheriff (if immediate possession is granted *and Writ of Possession is served the same day, with eviction set for 5-10 days later*)

- After obtaining a judgment of possession, the landlord must request a “Writ of Possession” from the Clerk of the Court. The Clerk will send the Writ of Possession to the Sheriff, who sets the eviction date.
- The sheriff is required to give the tenant *at least 72 hours* written notice before an eviction. Only the sheriff may actually evict the tenant from the apartment.
- *Simply making some payments, or payment in full, to the landlord after the judgment of possession will not stop the eviction process. The landlord can take part or all of the rent and still proceed with eviction unless everything owed has been paid and a new tenancy created. Even then, the tenant should check with both the landlord and the Sheriff’s Department to make sure that the eviction has been cancelled.*

Unlawful Evictions

Virginia law does not allow the following:

- Lock out tenants.
- Remove tenant belongings.
- Cut off tenant’s access to essential services such as heat, water, gas, or electricity without going through legal proceedings.

Month to Month Leases

- The landlord must give the tenant at least 30 days *written* notice to vacate the unit.

Landlord refuses to make needed repairs

- NEVER withhold your rent on your own to force your landlord to get repairs done! *You must be current in rent, and stay current in rent, to force your landlord to get repairs done.*
- Write your landlord a letter stating the problems you are having and what repairs are needed and keep a copy and proof of mailing. If there is no response or repairs, *you may* write your landlord a second letter stating that you are going to pay your rent into escrow if the repairs are not done, and give the landlord the exact date you plan to do it. Keep a copy and proof of mailing. *You are not required to write the second letter, and you may put all the information in the first letter.*
- Virginia law requires tenants give landlords at least 21 days to make the repairs before opening the escrow account, unless they are emergencies related to health and safety, *in which case the tenant must give the landlord a reasonable time to make the repairs.*
- When you go to pay your rent to the court, you must take the following:
 - Copy of your lease
 - Copy of the letter you wrote your landlord asking for repairs
 - *Your next month’s rent*
- You will be given a court date within *14-21* days and the judge will decide what to do with your rent money and which repairs the landlord is required to complete.

The information presented has been prepared for general information purposes only, not legal advice. The information outlined cannot replace the advice of competent legal counsel licensed in Virginia. Authorized by Martin Wegbreit, Esq., P.O. Box 12206, Richmond, VA 23241.