

GENERAL EVICTION INFORMATION

Prior to filing an eviction complaint, the following requirements should be complied with pursuant to Florida Statutes:

- 1) F.S. 83 requires written a Notice to be given to tenant:
 - a. Non-payment of rent
 - b. Non-compliance of lease or rental agreement
- 2) F.S. 723 pertains to the Notice requirements for Mobile Home Parks with more than 10 spaces.

Notice forms are not provided by this office, but may be obtained at an office supply store.

Note: Review F.S. 83.56(5) regarding acceptance of rent or performance after Notice is served.

FILING INSTRUCTIONS

Complaint forms can be obtained from the office of the Clerk of the Circuit Court for the following types of evictions:

- 1) Possession Only
- 2) Possession and non-payment of rent
- 3) Eviction for Other Than Failure to pay Rent

Prepare the appropriate Complaint form and submit it to the office of the Clerk of the Circuit Court for filing. In order for your complaint to be processed expeditiously, you must provide the following:

- 1) Submit the original complaint and attachments. (This includes the Notice, Lease and any other documents important to the case.) Be sure it is signed. Print your name below the signature.
- 2) Submit one copy of complaint and attachment for each defendant and one for yourself. If you want the clerk to make copies of your exhibits, prior to filing, the fee

is .15¢ per page. If you request a copy of a pleading or exhibit after it has become a part of the official record, the fee is \$1.00 per page.

- 3) Pre-stamped (legal size) envelopes with appropriate postage shall be submitted for each defendant with additional copies of the complaint and attachments, F.S. 48.183(2)

When evicting a business, two envelopes and two copies of the complaint with attachments are required. Address one to the defendant at the address or location as designated in lease or other agreement. The second is to be addressed to the last known business address. (F.S. 83.22(2))

- 4) Pay the current filing fee. Checks should be made payable to the Clerk of the Circuit Court.
- 5) Pay the fee for service of the summons by the Sheriff. Make check payable to the Sheriff of Volusia County. Ask the Clerk or Sheriff for the current fee.

Upon filing your complaint, the Clerk's office will issue the applicable summons and forward to the sheriff with the pre-paid fees.

There are two types of Summons.

- 1) Five Day - Issued when seeking possession of property.
- 2) Twenty Day - Issued in conjunction with the Five Day summons when seeking to obtain a money judgment for damages and possession.

NOTE: EFFECTIVE SEPTEMBER 18, 1995, AN ADDITIONAL COPY OF THE COMPLAINT IS REQUIRED FOR EACH DEFENDANT BEING SERVED WHEN SEEKING MONEY DAMAGES. This will allow the Sheriff's Department to post the five day summons and personally serve the

twenty day summons as required by law.

AFTER SERVICE

Response Filed: When the defendant/tenant files an answer, deposits rent and/or files a Motion to Determine the Amount of Rent to be paid into the Court Registry, a court date will be set as soon as possible. Any rent accruing during the pendency of the proceeding must also be deposited. (F.S.83.60)

Note: A service charge for depositing rent into the court registry shall apply. F.S. 28.24(10) 3% of the first 500 and 1.5% for each subsequent \$100.

No Response: If the defendant/tenant does not answer, file a Motion to Determine Rent or deposit rent, it will constitute an absolute waiver of defense and an immediate default and judgment will be entered without further notice after the following has been presented to the court. (F.S. 83.60)

For possession of property only:

- 1) File a Motion for Default and Default.
- 2) File an Affidavit of Proof of Claim and a Non-Military affidavit.

If you have obtained an attorney, he may prefer to prepare the Final Judgment, however, the judgment form is available in the Clerk's office.

For an award of money damages:

In addition to #1 and #2, you may submit a proposed final judgment with the computations of damages as submitted in the affidavit of proof, plus costs not awarded in the Judgment for Possession and an attorney fee, if applicable. However, the Clerk's office also has this form available.

POSSESSION

Once the judgment has been entered, you may request a Writ of Possession from the Clerk's office. (If the eviction is for a mobile home belonging to the tenant and is governed by F.S. 723, the writ will not be issued for 10 days.) At the time of your request, you

may direct the clerk to forward the writ to the sheriff or return it to you for service. The current fee for service of the writ of possession is available from the Clerk's office or the Sheriff's department.

Once the sheriff has served the Writ of Possession, they will contact you regarding taking possession of the property.

SETTLEMENT

If you and the defendant/tenant have reached an agreement prior to a hearing or entry of judgment, and you wish to cancel the case, you should submit a Voluntary Dismissal advising the court that the case was settled and you are dismissing it. A copy should be sent to the defendant/tenant.

NOTE: Effective March 31, 1992, Florida Statutes 83.59 (2) were revised to read: A landlord's agent is not permitted to take any action other than the initial filing of the complaint, unless the landlord's agent is an attorney. Refer to Supreme Court Opinion Reference: Volume 18, Number 50, Dec. 10, 1993.

A property manager may handle an eviction as long as it remains an uncontested case. When a hearing is requested, it then becomes a contested case. To ensure that a property manager has the authority to file evictions, the landlord **must give the property manager written authorization to do so. It should be filed with the eviction action.** The authorization should cover only the completion, signing, and filing of the pleadings necessary to evict a tenant for *Non-Payment of Rent*. The landlord cannot designate the property manager as the plaintiff in an eviction action or authorize the manager to seek the recovery of past due rent.

ADDITIONAL INFORMATION

The Clerk's office cannot refuse to accept any filing presented to them. A determination regarding the proper filing of a complaint or pleading will be made by the judge. You may contact the assigned judge's office for clarification of his/her requirements.

The Clerk's office cannot recommend an attorney for you. If you do not know of an attorney who will file Landlord/Tenant actions, you should contact the Lawyers Referral Service at 1-800-342-8011.

ADDRESS FOR THE CLERK OF THE CIRCUIT COURT

LAURA E. ROTH
Clerk of the Circuit Court
P.O. Box 6043
101 N. Alabama Avenue
DeLand, FL 32721-6043
386-736-5907

LAURA E. ROTH
Clerk of the Circuit Court
P.O. Box 2401(32115)
125 East Orange Avenue
Daytona Beach, FL 32114
386-257-6081

LAURA E. ROTH
Clerk of the Circuit Court
124 N. Riverside Drive
New Smyrna Beach, FL
32168 386-423-3304

Public Information available on the
Clerk's Web Site
www.clerk.org

Revised 04/11

GENERAL EVICTON INFORMATION

Historical Court House
Volusia County, Florida



A Service of

LAURA E. ROTH
Clerk of the Circuit
Court Volusia County
P.O. Box 6043
DeLand, FL 32721-6043

Office Hours

8:00 A.M. – 4:30 P.M.
MONDAY THROUGH FRIDAY