

## **My tenant has not paid rent, what can I do?**

If there is a written or verbal lease between you and the tenant to pay rent, and the tenant fails to pay, you must serve the tenant with the proper notice as required by Chapter 83 of the Florida Statutes.

Refer to Chapter 723 if the rental is part of a Mobile Home Park with more than 10 spaces.

*Notice Forms are not supplied by the Clerk's Office, but may be obtained at any office supply store.*

If the tenant fails to pay or move within the required time limit, a complaint may be filed for Removal of Tenant for Non-Payment of Rent.

## **What if the tenant wants to pay the rent after the Notice is served?**

Refer to Florida Statutes 83.56 regarding the acceptance of rent after notice is given.

## **Are there forms available?**

Complaint forms for Non-Payment of rent may be obtained from any of the three (3) civil offices located at DeLand, Daytona Beach or New Smyrna Beach.

There are two types of complaint forms. One is for possession of the property only and the second is for possession of the property and past due rent.

## **How much does it cost to file a complaint?**

\*Fees are subject to change by County Ordinances or Florida Statutes. Please see current fee schedule.

Please refer to the current Fee Schedule for filing a complaint. The Sheriff's service fee is \$40.00 per person served in Volusia County. If a Writ of Possession is necessary to gain possession after judgment, the fee for serving the writ is \$90.00.

## **What papers do I need to begin the suit?**

At the time of filing the complaint, a copy of the notice, lease and any other documents important to the case must be provided.

When filing for **possession only**, in addition to the original complaint, submit two copies of the complaint and attachments and a stamped pre-addressed legal envelope (No. 10 or 4.13 x 9.5) for each defendant.

If you are suing for **possession and rent damages**, in addition to the original complaint and stamped pre-addressed envelopes, you need to submit three copies of the complaint and attachments for each defendant.

## **Can a property manager file on my behalf?**

A property manager may file a complaint for Non-Payment of Rent as long as it remains an uncontested case. The Property Manager must file his authority from you to complete,

sign and file all pleadings necessary to evict a tenant for Non-Payment of Rent.

## **What happens after the complaint is filed?**

A summons will be issued to the tenant/defendant directing them to file an answer and pay any past due rent (residential only) into the registry of the court. If you are asking for the rent and or damages, an additional summons will be issued requiring an answer to be filed as to the damages.

If the Tenant/Defendant files an answer, deposits all of the rent and or files a Motion to Determine the Amount of Rent to be paid into the registry, a court date will be set as soon as possible. Any rent accruing during the pendency of the proceeding must also be deposited.

**\* An additional service charge of 3% for the first \$500 and 1.5% for each subsequent \$100 shall be charged at the time of the deposit.**

**\* Only cash, cashier's checks or money orders will be accepted as payment of rent.**

## **What if the defendant does not answer?**

If the Defendant does not answer or file a Motion to Determine Rent, it will constitute an absolute waiver of defense and a default will be entered without further notice. **You or your attorney must file a Motion for Default, an Affidavit of Proof of Claim and a Non Military Affidavit before the default can be entered.**

Once a judgment has been entered, you may request a Writ of Possession be issued and forwarded to the sheriff or have it returned to you for delivery to the Sheriff.

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.

The Writ of Possession will be served by the Sheriff and will allow the tenant 24 hours to move. If the tenant has not vacated within the 24 hour period, the Sheriff will remove them and contact you regarding taking possession of the property.

The Judge may allow the tenant additional time to move. A writ may not be issued without a court order.

**What if I want the tenant to move for reasons other than non-payment of rent?**

The Clerk's Office also has available a complaint form for *other than non-payment of rent*. Proper notice must be served as required by Chapter 83 of the Florida Statutes. After proper notice is given, the complaint may be filed. A summons will be issued requiring the defendant to answer. The procedure for obtaining a default or scheduling a hearing shall be followed in order to obtain a judgment. You may request a Writ of Possession in the same manner as previously stated.

**The Clerk's Office recommends that you seek advice from an attorney regarding**

**any Landlord-Tenant problems, and that both landlords and tenants become familiar with Chapter 83, Florida Statutes and Chapter 723 (Mobile Homes).**

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.**

**ADDRESSES FOR CLERK OF 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 (Zip Code 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 and [www.clerk.org](http://www.clerk.org)**

**LANDLORD/TENANT**

**Failure to Pay Rent**

**Eviction**



**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**