

FREQUENTLY ASKED QUESTIONS

DO I NEED A LAWYER?

In some instances, corporations and certain other business entities must be represented by an attorney. Otherwise, you are not required to have a lawyer, although one could be helpful to you.

WHAT HAPPENS IN COURT?

When both sides appear: the Court will hear both sides of a case and make a decision. If the landlord wins, the Court will enter a judgment of possession, and if there was personal service on the tenant, the Court may also issue a money judgment in the amount of rent and costs due.

When the landlord fails to appear: the Court will most likely dismiss the case.

When the tenant fails to appear: the Court will most likely enter a judgment in favor of the landlord.

WHAT SHOULD I BRING WITH ME TO COURT?

You should bring all of your evidence, that is, whatever you have that you believe would support your claim or defense.

HOW DO I REQUEST A POSTPONEMENT?

You should make your request in writing prior to the court date, send a copy of your request to the opposing party, and certify that you have done so. However, you may also request a postponement in court on the trial date.

HOW DOES THE EVICTION PROCESS WORK?

To begin the process of eviction, the landlord requests a **Warrant of Restitution, which must be filed within 60 days of judgment or the execution of any stay of eviction.**

In a Failure to Pay Rent Case, if the tenant does not pay all rent and costs determined by the Court to be due, the tenant will be evicted. Generally, the tenant may prevent eviction by paying all rent and costs due at any time before the eviction. This is known as the **tenant's right of redemption.**

Exception: Foreclosure of the right of redemption: If there have been 3 prior judgments for possession (4 in Baltimore City) in the preceding 12 months, the Court may foreclose (deny) the right of redemption.

WHAT ARE MY RIGHTS TO A JURY TRIAL?

Jury trials are held in the Circuit Court, not the District Court. If the amount of the claim exceeds \$15,000, or if the value of the tenant's interest in the leasehold is greater than \$15,000, either party may request a jury trial. Jury trial requests must be in writing. In a residential tenancy, a request for a jury trial may be filed no later than the first appearance of the parties in District Court.

HOW DO I COLLECT MONEY DAMAGES?

The Court cannot collect money for you. It is your responsibility to collect damages awarded by the Court. For more information, see District Court brochure titled Post-Judgment Collection (DC/CV 60 BR).

HOW DO I FILE AN APPEAL?

Each party has the right to appeal by filing an appeal on form DC/CV 37. In failure to pay rent cases, the appeal must be filed no later than 4 business days after the date of judgment. In all other actions for possession, the appeal must be filed no later than 10 calendar days after the date of judgment. Whether the appeal is *de novo* (a new trial) or on the record depends on the amount in controversy. The filing of an appeal does not automatically stay the eviction. Posting the bond ordered by the Court will stay the eviction until the Circuit Court decides the appeal.

MEDIATION: AN ALTERNATIVE

The District Court's Alternative Dispute Resolution Program (ADR) offers mediation free of charge. It is less formal, less time-consuming and less costly than going to court. A trained mediator will work with both sides to try to arrive at a mutually agreeable solution. If mediation is not successful, you may still seek a decision by the Court.

For more information on Maryland courts and procedures, please contact a clerk in any state or county courthouse or visit the Maryland Judiciary website:

www.mdcourts.gov

It is the mission of the District Court of Maryland to provide equal and exact justice for all who are involved in litigation before the court.

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How Landlords
Can Resolve
Disputes with
Tenants

Information
for Landlords

RIGHTS AND REMEDIES OF THE LANDLORD

GENERAL INFORMATION

Filing with the Court:

Please make sure that your paperwork is accurate and legible. All correspondence with the Court after the initial filing should include the case number and a certification that you sent a copy to the tenant. The proper location for filing is in the county where the property is located.

The Servicemembers Civil Relief Act:

In any action against a tenant, federal law requires you to provide, in the paperwork that you file, specific facts regarding whether each tenant is in the military. One source for obtaining this information is the Dept. of Defense Manpower Data Center:
<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

For more information go to the Judiciary website at www.mdcourts.gov and follow the link to the Servicemembers Civil Relief Act.

Service of Process: In all cases a summons must be delivered to ("served" on) the tenant(s).

Types of service are:

1. Posting & Mailing - the sheriff or constable posts the paper(s) in a conspicuous place, usually on the door of the rented property and mails a copy by first class mail to the tenant's address.

2. Personal Service - the sheriff or constable personally delivers the paper(s) to the tenant(s). Generally, posting is sufficient for a judgment for possession of the property, but personal service is required for a money judgment.

Notes Regarding Eviction:

Eviction cannot take place on a Sunday or Holiday. The sheriff or constable must be present. The landlord is not responsible for notifying the tenant of the timing of the eviction, but doing so will give the tenant the opportunity to remove personal property. Tenant is responsible for all property removed from the premises.

ILLEGAL ENTRY, LOCKOUT, OR DIMINUTION OF SERVICES BY LANDLORD

1. When the landlord enters the rental premises without legal authority, the tenant can file:

- (a) Petition for Injunction (DC/CV 83) for breach of the Covenant of Quiet Enjoyment, or
- (b) Petition for Peace Order (DC/PO 1, DC/PO 1A, & DC/PO 1S; see brochure CC-DC/DV/PO 1BR for more details), or
- (c) a criminal trespass charge.

2. When landlord unlawfully locks a tenant out or otherwise unlawfully causes a diminution of services to the tenant, tenant may be entitled to be placed back in possession of the property, or an award of actual monetary damages, attorneys fees, and costs, depending on the circumstances.

FAILURE TO PAY UTILITY BILL

If you fail to pay for the gas or electric bill as required in a lease, the tenant can deduct any payments to the service provider and the security deposit or fee to open a new account, from the rent due.

Specific Rights and Court Remedies

TENANT FAILS TO PAY RENT

What to file: Failure to Pay Rent - Landlord's Complaint for Repossession of Rented Property (form DC/CV 82).

Do I have to do anything before filing?

No.

Licensing: If a county or subdivision requires a landlord to be licensed in order to rent the property the landlord is required to list the licensing information on the complaint and to have proof of licensure in court.

Warrant of Restitution: May be filed no sooner than 4 business days from the date of judgment.

Appeal Period: Within 4 business days from the date of judgment.

Mobile Home Parks: The procedures are similar to those in an ordinary failure to pay rent case, but the applicable time periods are different. The appeal period is 2 days from the date of judgment; the warrant of restitution may be filed no sooner than 15 calendar days from the date of judgment. See form DC/CV 82MH for more detailed information.

TENANT REFUSES TO LEAVE

What to file: Complaint and Summons Against a Tenant Holding Over (form DC/CV 80).

Do I have to do anything before filing?

Yes. You must give the tenant written notice to quit. Generally, you must give notice: (1) at least one month before the expiration of a tenancy of a definite duration, a tenancy of no definite duration or of a month-to-month tenancy; (2) one week before the expiration of a week to week tenancy; (3) 3 months before the expiration of a year-to-year tenancy.

Warrant of Restitution: Can be issued immediately.

TENANT BREACHES LEASE

What to file: Complaint and Summons Against a Tenant in Breach of Lease (form DC/CV 85).

Do I have to do anything before filing?

Yes. You must give the 30 days written notice that the tenant is in violation of the lease and that the landlord desires to repossess the property (14 days if the violation results in a clear and imminent danger of serious harm).

Warrant of Restitution: Can be issued immediately.

OCCUPANT (not a tenant) REFUSES TO LEAVE

What to file: Complaint for Wrongful Detainer or Grantor in Possession (DC/CV 89)

Do I have to do anything before filing?

No.

Notes: Wrongful Detainer and Grantor in Possession actions are not allowed where there is another specific remedy available. This is not actually a landlord-tenant matter since the wrongful holder of the property is not a tenant.

Warrant of Restitution: can be issued immediately.