

LANDLORD AND TENANT FORMS - INSTRUCTIONS

Dear Landlord or Tenant:

The attached forms are designed for your use in the event of common landlord/tenant disputes. They should be used only for residential leases. If you have a commercial, agricultural, or personal property lease you should consult with an attorney. No form should be used until you have carefully reviewed and understand the instructions preceding the form and reviewed any Florida Statute referred to.

The residential landlord/tenant relationship is controlled by the terms of your lease and by Part II of Chapter 83 of the Florida Statutes. The procedures for enforcing your rights under your lease and Part II of Chapter 83 are set forth in section 51.011, Florida Statutes. You are advised to carefully review these statutes before starting any legal proceeding concerning a residential lease.

Before starting a lawsuit the Landlord should consider other remedies available and should weigh the costs, including lost time and expense, against the probability of a successful outcome. The Landlord should consider that Florida Statutes §83.48 provides for the recovery of attorneys fees and reasonable court costs by the prevailing party in any litigation arising from a failure to comply with the agreements and duties set forth in a residential lease. Attorneys fees, in some cases, might even exceed the potential recovery of past rents. Therefore factors such as those mentioned herein should be assessed prior to initiating a lawsuit.

Before you can start a lawsuit to end a residential lease or withhold rental payments, you must first give proper written notice. The form of the notice will depend on the landlord's or tenant's reason for terminating the lease or withholding rent. There are two common reasons for a landlord to terminate a lease and evict a tenant. These reasons are:

1. The tenant has not paid his rent on time.
2. The tenant has not complied with the requirements of the lease or has violated Florida Statutes

Forms 1 and 2 contain the notices the landlord will need to send to the tenant in order to terminate the lease and evict the tenant for those two reasons.

The tenant must give notice to the landlord for one of two reasons. First, a tenant will notify the landlord to end the lease when the landlord does not maintain the property as required by the lease of Florida Statutes. Second, the tenant may instead withhold rent payments. Forms 3 and 4 contain the notices which must be sent to the landlord in each of these circumstances.

After sending the notice, it may be necessary to file a suit. The landlord will, as a general rule, have a suit against the tenant not only to evict the tenant (have the tenant removed from the property), but also for damages for unpaid rent. Form 5 contains a complaint both for eviction and for damages for unpaid rent. If the amount of damages exceeds \$15,000 you should not use this form. If the landlord wants to evict the tenant for breaches of the lease other than failure to pay rent,

his suit may be for eviction only. Form 6 contains the complaint to evict a tenant for failure to comply with the lease other than the payment of rent.

At the time the complaint is filed the landlord must ask the clerk to issue summonses and deliver those summonses to the sheriff, or any other officer authorized by law to serve process, with a copy of the complaint, for service on the tenant. A separate summons is necessary for an eviction and to recover damages for unpaid rent. If a landlord is suing the tenant both to evict him and for damages he will need to have both summonses issued and delivered to the sheriff with the complaint. Form 7 contains the form of the summons for eviction and Form 8 the additional summons to be used if unpaid rent is also sought.

If the court rules that the landlord is entitled to evict the tenant and/or recover damages for unpaid rent, the court will sign a judgment in the landlord's favor. Form 9 contains the form of a final judgment for damages and Form 10 the form of a final judgment for eviction. Should a landlord receive a final judgment for eviction he must ask the clerk of the court to execute a Writ of Possession. The form of the Writ of Possession is Form 11 The Writ of Possession should be delivered to the sheriff for service on the tenant after execution by the clerk.

The landlord usually may keep the security deposit to apply against damage to the property caused by the tenant. The landlord's right to keep the security deposit is strictly limited by the Florida Statutes. To keep the security deposit the landlord must send a notice to the tenant. Form 12 provides you with the form for a Notice of Intent to Claim Security Deposit.

FORM 1 - NOTICE FROM LANDLORD TO TENANT -- TERMINATION
FOR FAILURE TO PAY RENT

This notice may be delivered by mail or by delivering a copy to the property.

This notice must be delivered, and the three-day time period must run, excluding Saturday, Sunday and legal holidays, before starting suit to evict the tenant or to recover past due rent.

SOURCE: Section 83.56(3), Florida Statutes (19905)

FORM 2 - NOTICE FROM LANDLORD TO TENANT -- TERMINATION
FOR NONCOMPLIANCE OTHER THAN FAILURE TO PAY RENT

Lease violations which entitle the landlord to send this Notice include having or permitting unauthorized pets, unauthorized guests, or unauthorized vehicles; parking in an unauthorized manner or permitting such parking; failing to keep the premises clean and sanitary, or other activities not permitted by the lease.

Under some situations, such as the tenant's intentional destruction of property of the landlord or other tenants, the landlord may be able to terminate the lease without giving the tenant an opportunity to remedy. For the notice necessary to terminate the lease under these circumstances, see Florida Statute ~~83.52(2)(a)~~: 83.56(2)(a).

The delivery of this written notice may be by mailing or delivery of a true copy to the premises, or, if the Tenant is absent from the premises, by leaving a copy of the notice at the premises.

This written notice must be delivered, and the seven day time period must run, prior to any termination of the lease or any lawsuit for eviction.

SOURCE: Section ~~83.52(2)(b)~~ 83.56(2)(b), Florida Statute (19905)

FORM 3 - NOTICE FROM TENANT TO LANDLORD -TERMINATION FOR
FAILURE OF LANDLORD TO MAINTAIN PREMISES AS REQUIRED
BY FLORIDA STATUTE 83.51(1) OR MATERIAL PROVISIONS
OF THE RENTAL AGREEMENT

Tenant should carefully review Section 83.51(1) Florida Statutes and the lease and should ensure that the violations in the notice do, in fact, exist. The tenant's right to terminate the lease exists only after giving the notice and if the landlord fails to make the required repairs. Section 83.51(1) provides as follows:

83.51 Landlord's obligation to maintain premises.

- (1) The landlord at all times during the tenancy shall:
 - (a) Comply with the requirements of applicable building, housing, and health codes; or
 - (b) Where there are no applicable building, housing, or health codes, maintain the roofs, windows, screens, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads and the plumbing in reasonable working condition. However, the landlord shall not be required to maintain a mobile home or other structure owned by the tenant.

The landlord's obligations under this subsection may be altered or modified ~~by the lease in the case of~~ in writing with respect to a single-family home or duplex.

SOURCE: Section 83.56(1), Florida Statutes (1990~~5~~1)

FORM 4 - NOTICE FROM TENANT TO LANDLORD - WITHHOLDING RENT FOR
FAILURE OF LANDLORD TO MAINTAIN PREMISES AS REQUIRED BY FLORIDA
STATUTE 83.51(1) OR MATERIAL PROVISIONS OF THE RENTAL AGREEMENT

~~A tenant cannot withhold rent from the landlord without sending the above notice and allowing the landlord time to make the repairs. If the repairs are not made the tenant may withhold rent. A tenant cannot withhold rent from the landlord without sending notice and allowing the landlord time to make repairs. If the repairs are not made and the unrepared dwelling is untenable, the tenant may vacate and withhold all rent. If the repairs are not made but the failure to make the repairs does not render the dwelling untenable, the tenant may remain in the dwelling and the rent shall be reduced, until the repairs are made, by an amount in proportion to the loss of rental value caused by the failure to make repairs.~~ In any legal proceeding, however, the tenant will have to pay all past due rent, and rent as it comes due during the legal proceedings, into the registry of the court. The tenant should, therefore, deposit all rent as it comes due in a separate bank account until the tenant's disputes with the landlord have been solved. For the text of Florida Statute 83.51(1), and the grounds for withholding rent, see the note to Form 3.

SOURCE: Section 83.56(1), Florida Statutes (1990~~5~~)

FORM 5 - COMPLAINT FOR LANDLORD TO EVICT TENANTS FOR
FAILURE TO PAY RENT

FORM 5A - COMPLAINT FOR LANDLORD TO EVICT TENANTS FOR
FAILURE TO PAY RENT AND TO RECOVER PAST DUE RENT

Form 5 should be used if only eviction of the tenants is sought. Form 5A should be used to evict the tenants and recover damages (past due rent).

~~Prior to initiating a lawsuit the landlord should weigh the costs, including lost time and expense, against the probability of a successful outcome. The landlord should consider that Florida Statutes §83.48 provides for the recovery of attorneys fees and reasonable court costs by the prevailing party in conjunction with any litigation resulting from a failure to comply with the agreements and duties set forth in a residential lease. Attorneys fees, in some cases, might even exceed the potential recovery of past rents. Therefore factors such as those mentioned herein should be assessed prior to initiating a lawsuit.~~

~~SOURCE: Section 83.54 and 83.55, Florida Statutes (1995).~~

FORM 6 - COMPLAINT FOR LANDLORD TO EVICT TENANTS FOR
FAILURE TO COMPLY WITH LEASE (OTHER THAN FAILURE TO PAY RENT)

Form 6 should be used for eviction of tenants if the tenant's default is something other than failure to pay rent. If damages are sought a separate count, as set forth in Form 5A, is necessary.

See Instructions to Form 5 and Form 5A.

FORM 7 - Summons - Eviction Claim

If your complaint is only for eviction of the tenant, you need to fill out and deliver this form to the clerk with the complaint. If your complaint is also for damages, you will need to attach Form 8.

SOURCE: Fla.R.Civ.P. 1.070(1995); Fla.R.Civ.P. Form 1.923 (1995)

FORM 8 - SUMMONS - DAMAGES CLAIM

If a lawsuit is filed to evict the tenant and recover back rent both summonses, Forms 7 and 8 should be prepared and delivered to the clerk of the court at the time of filing the complaint. If the complaint seeks only to evict the tenant, only Form 7 need be prepared and delivered to the clerk with the complaint. The summons or summonses should be attached to a copy of the complaint and, after execution by the clerk, delivered to the sheriff or other authorized process server to be served upon the tenant.

SOURCE: Fla. R. Civ. P. 1.070 (1995)

FORM 9 - FINAL JUDGMENT - DAMAGES

After the Court enters this Judgment you should obtain a certified copy of the judgment from the clerk of the court and record the certified copy in the public records in any county in which the tenant owns real property. The clerk of the small claims court can probably provide you with information concerning the collection of the amounts owed you.

A judgment for money is a lien upon the real or personal property of the person against whom the judgment is entered for a period of seven years. The lien may then be extended for an additional period of seven years by re-recording a certified copy of the judgment within the ninety-day period proceeding the expiration of the lien, and by simultaneously recording an affidavit with the current address who has a lien as a result of the judgment. The lien may then be further extended for a period that when added to the first two seven-year terms, would not exceed twenty years from the date of entry of the judgment, by re-recording a certified copy of the judgment and simultaneously recording an affidavit as previously described.

SOURCE: Sections 55.081 and 55.10, Florida Statutes (1995)

FORM 12 - NOTICE OF INTENTION TO IMPOSE CLAIM ON SECURITY DEPOSIT

A landlord must return a tenant's security deposit, together with interest if otherwise required, to the tenant no more than 15 days after the tenant leaves the leased property. The landlord may claim all or a portion of the security deposit only after giving the tenant written notice, by certified mail to the tenant's last known mailing address, of the landlord's intention to keep the deposit and the reason for keeping it. If the landlord does not send the notice within the 15 day period he cannot keep the security deposit. If the tenant does not object to the notice, the landlord may then keep the amount stated in the notice and must send the rest of the deposit to the tenant within 30 days after the date of the notice.

SOURCE: Section 83.49(3)(a), Florida Statutes (1995)

FORM 13 - SATISFACTION OF JUDGMENT - COUNTY COURT

Whenever the entire amount due on a judgment, including interest, is paid in full, the holder of a judgment must execute a satisfaction of judgment and record the satisfaction in those counties where a certified copy of the judgment was previously recorded. Failure to do so may lead to a civil action wherein the prevailing party is entitled to recover attorneys fees and costs.

SOURCE: Section 55.141 and 701.04 Florida Statutes (1995)

FORM 14 - SATISFACTION OF JUDGMENT - CIRCUIT COURT

Whenever the entire amount due on a judgment, including interest, is paid in full, the holder of a judgment must execute a satisfaction of judgment and record the satisfaction in those counties where a certified copy of the judgment was previously recorded. Failure to do so may lead to a civil action wherein the prevailing party is entitled to recover attorneys fees and costs.

SOURCE: Section 55.141 and 701.04 Florida Statutes (1995)