

Giving Your Tenant Notice to Vacate

(Do not use this form letter if your tenant owns his or her mobile home and rents only the lot it sits on from you.)

Note: Use these instructions and form letter to write a letter to the tenant. The letter will give notice to the tenant to vacate the rental. Vacate means move out.

These instructions and form notice letter may not be right for your case. They cannot take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Do not change this form letter. If you change the form letter, you might lose language you need.

Do not use these instructions and form letter if you rent only a mobile home lot to the tenant, or if the tenant has a federal rent subsidy such as Section 8 (also known as "Housing Choice Voucher"). The laws are different for those

What form will I need?

You only need one form. The form is the form letter that follows these instructions. The form notice letter begins on page 7 of this packet.

Who can use this form letter?

You can use this form letter if the tenant has (at least one of the following):

- a month-to-month or week-to-week tenancy;
- not paid rent;
- received notice of a lease violation within the last 6 months and has committed the same violation again;
- been charged with a criminal offense which creates a reasonable potential of damage to the rental or injury to neighbors according to Section 70-24-321(3), MCA;



- an unauthorized pet or person living in the rental (only if the rental agreement limits the pets or persons who can live in the rental);
- caused destruction of the rental;
- refused to give you lawful access to the rental;
- removed, replaced, or added a lock to the rental and not given you a key;
- abandoned the rental property;

OR

- committed some other non-compliance or violation of the rental agreement.

You cannot use this form letter if you are renting only a lot to the tenant for the tenant’s own mobile home. But you can use this form letter if you are renting both the lot and the mobile home to the tenant.

After I give notice to vacate, when does the tenant need to move?

After you give the tenant notice to vacate, the time the tenant has to move depends on why you are giving notice. In some situations the tenant has the right to fix the violation instead of moving out. See the chart below. The form letter you fill out will give the tenant notice of how much time he or she has to move out. Remember: if your rental agreement gives a longer notice time than this chart, you must give the tenant the notice time required by the rental agreement.

How Much Notice Time You Must Give The Tenant	
Situations Where Tenant Must Vacate With No Option to Fix:	
Month-to-month tenancy	30 days
Week-to-week tenancy	7 days
Repeat violation recurring within 6 months of previous notice of violation	5 days

Being criminally charged with or arrested for criminal production or manufacture of dangerous drugs, operation of an unlawful clandestine laboratory, or gang-related activities.	3 days
Abandonment by tenant	If you re-rented the property, the rental agreement ended the day you re-rented it. OR If you choose to accept the abandonment when you first noticed it, the rental agreement ended when you noticed the property was abandoned.
Situations Where Tenant Can Fix or Vacate:	
Non-payment of rent	3 days to pay or vacate
Unauthorized pet or person	3 days to fix violation or vacate
Refused to allow lawful access	24 hours to allow access, or vacate in 14 days
Changed, removed, or added locks	24 hours to fix violation, or vacate in 14 days
Destruction or damage of rental	3 days to fix violation or vacate NOTE: The law is not clear on whether a tenant has the right to fix this type of violation. Subsection (1)(a) of Section 70-24-422, MCA, provides a right to fix, but subsection (3) does not. If you end up in court for eviction, the judge may have to decide whether the tenant has the right to fix the violation.
Any other noncompliance or violation of the lease	14 days to fix violation or vacate

What can I do if the tenant does not move out or fix the violation?

You can sue the tenant in court for possession of the rental if he or she has not moved out or fixed the violation in the time given in the form letter. You may not remove a tenant without a court order. You may not have someone else remove the tenant without a court order. You may not shut off the tenant's utilities or change the locks on the rental without a court order.

How do I use the form letter?

1 Complete the form letter and sign it

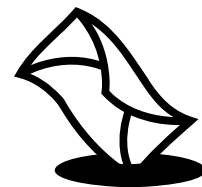
- Check the box or boxes that apply.
- Make sure all of the blanks on the form letter are filled in completely.
- Sign the form letter on the line that says “*(sign your name)*.”

2 Make a copy

- Make one copy of the completed and signed letter for yourself. Keep the copy in a safe place. It may be important if you have to go to court.

3 Deliver the letter to the tenant

You have two choices to deliver the letter to the tenant:



- Hand-deliver the letter to the tenant. If you choose this option, you must actually hand the letter to the tenant in person. The law does not allow you to tape it to the door to the rental, to leave it with a child or other person at the rental, or to leave it inside the rental. It is a good idea to bring two copies of the letter. If possible, ask the tenant to sign and date one copy of the letter as “received.” Keep that copy as proof that the tenant got your letter and give the tenant

the second copy. In case the tenant will not sign the letter, it is a good idea to bring someone with you when you hand-deliver it. That person can testify in court later if the tenant denies receiving your letter. If you choose this option, the notice period starts on the day after you hand the letter to the tenant. For example, if you hand-deliver a letter giving a 3-day notice on April 2, the tenant is not required to vacate until April 5.

or

- Mail the letter to the tenant. It is a good idea to mail the letter by first-class mail with a Certificate of Mailing. The post office will charge you more for the Certificate of Mailing, but it is worth it. Keep the Certificate of Mailing receipt. The Certificate of Mailing receipt is your proof that you sent the letter. With a Certificate of Mailing, the tenant will not have to sign anything to get the letter. The tenant cannot refuse delivery. If you choose this option, the notice period begins to run on the 3rd day after the date that you mailed the letter. For example, if you mail a letter giving a 3-day notice on April 2, the tenant is not required to vacate until April 8 (April 2 + 3 days mailing = April 5 + 3 days notice = April 8).

Where can I get more information?

The laws of Montana are called the Montana Code Annotated or “MCA.” The laws about giving notice to a tenant to vacate are located in the MCA at Title 70, Chapter 24, Section 422 and Section 441. An easier way to write that is: § 70-24-422, MCA, and § 70-24-441, MCA. The symbol § means section. You can find the MCA at your local library or on the Montana State Law Library website at www.lawlibrary.mt.gov. Click on the “Laws” option near the top of the page on that website, and then click on “MCA.”

The letter to the tenant refers to specific sections of the law. It is a good idea to read those sections of the law before you give the letter to the tenant.



Where Can I Get Legal Help?

These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.
- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. Or you can contact a Reference Librarian at 1-406-444-3636 or by email at mtlawlibrary@mt.gov.

Please take a short survey about this form.

When you are done with the form, please take our online survey at this address:

http://www.surveymonkey.com/s.aspx?sm=fCBhbhbJj4MdOWw_2fjsCjlg_3d_3d

Or you can access the survey on the “Forms” page of the State Law Library website, at www.lawlibrary.mt.gov. Your answers will help make the form better.

Thank you!

Note: You can use this form letter if the tenant rents a house, room, apartment, or mobile home from you. Do not use this form letter if the tenant owns a mobile home and rents only the lot that it sits on from you.

Date: _____ (the date you mail or hand-deliver the notice letter)

From (write your name and address):

_____ (name)

_____ (street address or P.O. Box)

_____ (city, state, ZIP)

_____ (phone)

To (write the tenant's name and address):

_____ (name)

_____ (street address or P.O. Box)

_____ (city, state, ZIP)

_____ (phone—optional)

Dear (write the name of the tenant): _____,

Please take notice that I am ending your rental of my property located at (write the address of the rental the tenant lives in):

_____.

You have received this notice letter because (check the box next to the paragraph below that fits the situation):

You have a month-to-month tenancy and I would like to end the tenancy. You must move out within **30 days** after receiving this notice. Section 70-24-441(2), MCA.

You have a week-to-week tenancy and I would like to end the tenancy. You must move out within **7 days** after receiving this notice. Section 70-24-441(1), MCA.

You have not paid your rent. You have **3 days** after you receive this notice to pay your rent in full, or to move out. Section 70-24-422, MCA. As of today, you owe me (*write the total amount due*):

Rent: \$_____

I have already given you notice of a violation of the rental agreement within the last 6 months, and you have committed this same violation again. The violation you have committed again is (*write the violation that the tenant committed*):

You must move out within **5 days** after you receive this notice. Section 70-24-422(1)(e), MCA.

You have been arrested for or charged with a criminal offense that creates a reasonable potential of damage to the rental or injury to neighbors, in violation of Section 70-24-321(3), MCA. The criminal offense is (*check the box next to the criminal offense that the tenant has been arrested for or charged with*):

- Criminal production or manufacture of dangerous drugs, as prohibited by Section 45-9-110, MCA.
- Operation of an unlawful clandestine laboratory, as prohibited by Section 45-9-132, MCA.
- Gang-related activities, as prohibited by Section 45-8-401 *et seq*, MCA.

You must move out within **3 days** after you receive this notice. Section 70-24-422(4), MCA.

- You have an unauthorized pet or person living in your rental. (*Circle "person" or "pet" as it applies to the tenant.*) You have **3 days** after you receive this notice to remove the unauthorized person or pet or to move out. Section 70-24-422(1), MCA.

- You have destroyed or damaged the rental, or allowed someone else to do so, in violation of Section 70-24-321(2), MCA. This is how you destroyed or damaged the rental (*write how the tenant destroyed or damaged the rental*):

You have **3 days** after you receive this notice to restore the rental to its previous condition, or to move out. Section 70-24-422(1)(a) and (3), MCA.

- You refused to give me lawful access to the rental property. If you do not allow me access within 24 hours of receiving this notice, you must move out within **14 days** of receiving this notice. Section 70-24-424, MCA.

- You have (*check the box next to the action the tenant has taken*):
- Removed a lock. You must put it back on within 24 hours of receiving this notice. If you do not, you must move out within **14 days** of receiving this notice. Sections 70-24-312, -422 and -424, MCA.

 - Replaced or added a lock, and you have not given me a key. You must give me a key within 24 hours of receiving this notice. If you do not, you must move out within **14 days** of receiving this notice. Sections 70-24-312, -422 and -424, MCA.
- You abandoned the rental property before the end of your rental agreement. I noticed you abandoned the rental property on (*write the date you noticed the tenant abandoned the rental property*): _____ . I have made reasonable efforts to rent the property at a fair market value. I re-rented the property to another tenant on (*write the date you re-rented the property to another tenant*): _____ . Your rental agreement ended on the day I re-rented the property. Section 70-24-426, MCA.
- You abandoned the rental property. I noticed you abandoned the rental property on (*write the date you noticed the tenant abandoned the rental property*): _____ . I have accepted your abandonment as a surrender of the property. Your rental agreement ended on the day I noticed your abandonment. Section 70-24-426, MCA.
- You have committed some other non-compliance or violation of the rental agreement, given below (*write the non-compliance or violation*):

You must fix this non-compliance or violation or move out within **14 days** after you receive this notice. Section 70-24-422(1)(d), MCA.

NOTE: If I mailed this letter to you, you may add 3 days to the date of mailing before you start counting the days in the notice period given above. For example, if I mailed a letter giving you a 3-day notice on April 2, you would not have to move out until April 8 (April 2 + 3 days mailing = April 5 + 3 days notice = April 8). If I hand-delivered this letter to you, start counting the days in the notice period on the day after you received the letter. For example, if I hand-delivered a letter giving you a 3-day notice on April 2, you would not have to move out until April 5.

If you have not fixed your lease violation or moved out in the number of days given above, I may take you to court to have you evicted.

Sincerely,

(sign your name)