

## Giving Notice Using WRA Landlord/Tenant Forms

<b>WHAT NOTICE TO GIVE</b>	
<b>★ Month-to-Month Tenancies</b>	
Rent is late:	Five Day Notice to Remedy Default or Vacate Premises (pay rent or vacate) --OR-- (Landlord has discretion to choose) Fourteen Day Notice Termination Tenancy (no right to cure, just vacate).
Non-Rent Breach:	Five Day Notice to Remedy Default or Vacate Premises (cure default or vacate) --OR-- (Landlord has discretion to choose) Fourteen Day Notice Termination Tenancy (no right to cure, just vacate).
Drug/Gang Nuisance:	Five Day Notice to Vacate - Nuisance or Threat of Harm (need law enforcement notice regarding drug or gang activity).
Imminent Threat of Serious Physical Harm:	Five Day Notice to Vacate - Nuisance or Threat of Harm (offender must be named in an injunction, condition of release or criminal complaint).
Criminal/Drug-Related Criminal Activity:	Five Day Notice to Vacate - Criminal Activity (arrest or conviction not required, does not apply to possession or use, only manufacture or distribution of drugs). Do not evict any victims.
Termination Without Stating Reason:	Twenty Eight Day Notice Terminating Tenancy (must be at least 28 days before end of rent-paying period).
<b>★ Lease for Term of One Year or Less</b>	
Rent is late:	Five Day Notice to Remedy Default or Vacate Premises (pay rent or vacate) ⇒ Second Time Rent is late within one year, then may give ũ . Fourteen Day Notice Termination Tenancy (no right to cure, just vacate).
Non-Rent Breach:	Five Day Notice to Remedy Default or Vacate Premises (cure default or vacate) ⇒ Second Non-Rent Default within one year, then may give ũ . Fourteen Day Notice Termination Tenancy (no right to cure, just vacate).
Drug/Gang Nuisance:	Five Day Notice to Vacate - Nuisance or Threat of Harm (need law enforcement notice regarding drug or gang activity).
Imminent Threat of Serious Physical Harm:	Five Day Notice to Vacate - Nuisance or Threat of Harm (offender must be named in an injunction, condition of release or criminal complaint).
Criminal/Drug-Related Criminal Activity:	Five Day Notice to Vacate - Criminal Activity (arrest or conviction not required, does not apply to possession or use, only manufacture or distribution of drugs). Do not evict any victims.
<b>★ Lease for More than One Year</b>	
Rent is late:	Thirty Day Notice for Leases of More than One Year (pay rent or vacate).
Non-Rent Breach:	Thirty Day Notice for Leases of More than One Year (cure default or vacate).
Drug/Gang Nuisance:	Five Day Notice to Vacate - Nuisance or Threat of Harm (need law enforcement notice regarding drug or gang activity).
Imminent Threat of Serious Physical Harm:	Five Day Notice to Vacate - Nuisance or Threat of Harm (offender must be named in an injunction, condition of release or criminal complaint).
Criminal/Drug-Related Criminal Activity:	Five Day Notice to Vacate - Criminal Activity (arrest or conviction not required, does not apply to possession or use, only manufacture or distribution of drugs). Do not evict any victims.

## MANNER OF GIVING NOTICE

Under Wis. Stat. § 704.21 the landlord (or the landlord's agent or property manager or person acting on the landlord's behalf) has a choice of methods to use to give a Notice to a Tenant. Please be aware of the following:

1. **Certified or Registered Mail:** The Tenant need not receive a mailed notice, it only needs to be sent appropriately. With certified or registered mail the sender has U.S. Post Office confirmation of when the Notice was mailed. Many choose to also send the Notice by regular mail at the same time to enhance the likelihood that the Tenant will receive the Notice because a Tenant may not accept certified or registered mail. With any mailing, remember to add two days to the timeframe.
2. **Giving Notice Personally to Tenant:** This can be effective or it may be hazardous if the Tenant is confrontational. Document this: the best way is for the Tenant to sign and date a copy of the Notice; otherwise the person making the delivery should make notes on a copy.
3. **Service by Process Server/Sheriff:** This may be preferable to giving the Notice to the Tenant personally if there may be bad feelings involved.
4. **Giving Notice to Tenant Family Member:** The Notice must be given to a member of Tenant's family who is at least 14 years old who was at the Tenant's usual place of abode and who was informed of the contents of the Notice.
5. **Giving Notice to Person in Charge and Mailing:** The Notice must be given to any competent person apparently in charge of the Premises or occupying the Premises or a part thereof, and mailed by regular or other mail to Tenant's last-known address. With any mailing, remember to add two days to the timeframe.
6. **Posting and Mailing Has Preconditions:** You can give the Notice by posting a copy in a conspicuous place at the Premises where it can be conveniently read AND by mailing a copy by regular or other mail to Tenant's last known address ONLY if you have **first** used reasonable diligence in attempting to give the notice to the Tenant by all of the following (items 2, 4 and 5 above):
  - (a) personally giving the Notice to the Tenant;
  - (b) leaving the Notice with a member of Tenant's family who is at least 14 years old who was at the Tenant's place of abode and informed of the contents; and
  - (c) leaving a copy with any competent person apparently in charge of the Premises or occupying the Premises or a part thereof, AND by mailing a copy by regular or other mail to the Tenant's last-known address. With any mailing, remember to add two days to the timeframe.

To meet the reasonable diligence standard, which is not defined, the safest rule of thumb is to try three separate times on three separate days and at three separate times to accomplish (a), (b) and (c) above. It is also best to keep records - notes or a log - of these attempts.

## WHEN NOTICE IS GIVEN

Notice is given on the day specified below, pursuant to Wis. Stat. § 704.19(7), which is counted as the first day of the Notice period:

1. The day of giving the Notice for a Notice personally given to Tenant.
2. The day of leaving the Notice for a Notice left with a competent family member over 14 years old at Tenant's usual place of abode who is informed of the contents.
3. The day of leaving a copy of the Notice, or the date of mailing, whichever is later, when a copy of the Notice is left with any competent person apparently in charge of the Premises or

occupying the Premises or a part thereof, AND a copy is mailed by regular or other mail to the Tenant's last-known address.

4. The day of affixing a copy of the Notice, or the date of mailing, whichever is later, when a copy of the Notice is posted in a conspicuous place at the Premises where it can be conveniently read and mailed by regular or other mail to Tenant's last known address.
5. The second day after mailing if the mail is addressed to a point within the state, and the fifth day after the day of mailing in all other cases.
6. The day of service if a process server or the sheriff is used.
7. The day of actual receipt by the Tenant.

## **POINTERS**

- If there are two or more Tenants of the same Premises, Notice given to one is deemed to be given to the others also.
- Whenever a Notice is mailed add two days to the timeframe; thus a five day Notice should be counted as 7 days.
- Tenant's last-known address may be the address of the Premises if no other address is provided or can be found.
- If Notice is not properly given by one of the methods specified, but is actually received by the Tenant, the Notice is deemed to be properly given. The burden is would be on the landlord to prove actual receipt by clear and convincing evidence.
- Once Notice is given the Tenant is not entitled to possession or occupancy of the Premises after the date of termination as specified in the Notice.