

What you need to know about EVICTION

In Milwaukee County you cannot be evicted from your home until the landlord gives you court papers, and the court orders the sheriff to move you out.

Eviction is a process. It normally **starts** with a termination notice. The termination notice is only the first step. You can only be removed from your home if the landlord follows **all** the steps described below. **A landlord may never put you out herself.** Even after the landlord gets a court order, only the **sheriff** can actually move you and your belongs out.



TERMINATION NOTICES - THE FIRST STEP

IF YOU DO NOT PAY YOUR RENT: the landlord may give you either a **5-day** or a **14-day termination notice** for nonpayment of rent.

If you rent by the month and:

☞ The landlord gives you a **5-day termination notice**, you are required to pay the rent in 5 days or move. If you pay within the five days, the landlord must accept the rent and can't evict you.

-or-

☞ The landlord gives you a **14-day termination notice**, the landlord can take you to court after the end of the fourteen days. The landlord does not have to accept the rent even if you offer to pay.

If you have a lease for a year or less:

☞ The landlord must give you a **5-day notice** telling you to pay the rent in 5 days or move. If you pay within the five days, the landlord must accept the rent and can't evict you. If the landlord has given you a 5-day notice for not paying rent and you pay, but you fail to pay again in the next 12

months, the landlord can then use a **14-day notice** the next time. If the landlord gives you a **14-day notice**, the landlord can take you to court after the end of the fourteen days. The landlord does not have to accept the rent even if you offer to pay.

IF THE PROBLEM IS NOT UNPAID RENT – EVICTION FOR OTHER REASONS

If you rent by the month:

☞ The landlord can give you a **14-day termination notice** if you break your agreement (having pets without permission, for example) or damage the property. If the landlord gives you a 14-day notice, the landlord must prove in court that you broke the agreement or damaged property before you can be evicted.

-or-

☞ The landlord can give you a **28-day termination notice**. If a 28-day notice is used, no reason for the eviction has to be given to you or the court. If the landlord gives you a 28-day notice, you must move out by the last day of the month after the 28th day. For example, if the landlord gives you a 28-day notice on March 15th, you must move by April 30th.

If you have a lease for one year or less:

If you have a lease and pay your rent on time, your landlord can only evict you before the end of the lease if you break the lease or damage the property.

☞ The landlord must give you a **5-day notice**, giving you five days to fix the damage or correct the violation of your agreement or else move out. If you fix the problem within five days, the landlord can't evict you. If the landlord has given you a 5-day notice for breaking the lease or damage and you fix the problem, but then break the lease again in the next 12 months, the landlord can use a **14-day notice** the next time. If the landlord gives you a **14-day notice**, the landlord can take you to court after the end of the fourteen days, even if you offer to fix the problem.

IMPORTANT: No landlord can give any kind of termination notice if the reason is to **retaliate** against you for complaining about building code violations, as long as you pay your rent and don't violate the lease.

WHAT HAPPENS IF I STAY AFTER THE NOTICE TELLS ME TO LEAVE?

If you get a 5-day notice and do not pay the rent or fix the violation or damage within the 5 days, or if you get a 14-day notice or a 28-day notice and do not move by the date the notice expires, the landlord must file a court action and get the court to order you moved out.

If the landlord files a court action, you will be served with **court papers** telling you to go to small claims court on a certain date. The court date is usually about one week after you get the court papers. On the court date, a court commissioner or judge will listen to you and the landlord to decide if the landlord can evict you.

It is **very important to go to court**. If you go to court, you will usually get a little **extra time** to move. If you don't go to court, the commissioner won't give you any extra time to move. Even after the court orders you to move, the landlord can not physically move you out by himself. Only the sheriff can move you and your belongings.

WHEN TO MOVE IF YOU CAN

If you get a termination notice and have no way to prevent the eviction, it is a good idea to try to move by the date on the termination notice. If you stay past the date on the notice and don't win in court, you might have to pay double the daily rent for every day you stayed after the notice ran out. If you can find a place to move to, though, you should stay until a court orders the eviction, because the court might give you more time if you show up in court.

If a court orders you to be out by a certain date, it is best to move out by that date. If you do not move out by the date the court gives you, the sheriff will come with movers a day or two later. The sheriff will usually (but not always) send you a 24-hour notice before coming to move you. If you have not moved out, the sheriff will take your keys, and your belongings will be put in storage. You will have to pay the moving company to get your belongings back.

WHAT



IF THE LANDLORD SAYS HE WILL PUT ME
HIMSELF?



OUT

In Milwaukee County, **you can only be moved out by the sheriff after the landlord gets a court order.** The landlord cannot change the locks on the house to evict you or take your personal or household belongings. A landlord also can't turn off your heat or electricity to try to force you out. If your landlord does any of these things you should **contact the police.** It is a violation of Milwaukee Municipal Ordinance 110-12 and the Wisconsin Consumer Protection Code 134.09 for a landlord to do these things. You can also sue the landlord for these violations and get double damages. The landlord will have to pay your reasonable attorney's fees if you sue and win.



PUBLIC AND SUBSIDIZED HOUSING and RENT ASSISTANCE TENANTS

If you live in public housing, "low-income" or "subsidized" housing, or if you have Rent Assistance, you have additional rights. For example, if you lose income, your rent should go down, even to zero in some cases. You **should immediately inform** the manager or your Rent Assistance worker **in writing** as soon as a problem comes up. Always keep a copy of any information you give to the manager or your case worker and get them to date-stamp or write the date the information was received on your copy.



THINGS TO THINK ABOUT WHEN YOU GET AN EVICTION NOTICE

When you get an eviction notice for not paying rent, you should contact your landlord and see if you can work out a payment plan with him or get more time to pay your rent. If you get any other kind of notice, you should also contact your landlord to see if you can work out a way to stay.


Once you find out if your landlord might let you stay, you should decide whether you **want** to stay. You might want to think about whether the property is safe and healthy, whether you have constant problems with the landlord, whether

you can afford the rent with your regular income, whether you have a month-to-month and could be evicted for no good reason, and whether you have a place to stay or can find a new place in a short time.

If you decide to stay, anything you work out with the landlord should be in **writing** and **signed** by the landlord. It is important to get written receipts for any payments and to get the terms of any agreement in writing.

If you have children you may be able to get financial assistance from one of the W-2 offices to help you with back rent or with first month's rent and security deposit for a new place. You can apply for a Job Access Loan and/or Emergency Assistance. Some W-2 offices also have their own programs to help people with their rent. You should contact the W-2 office near you and ask what assistance is available.

Before you apply for one of these grants or loans, you should think about the following:

- ☞ Emergency Assistance: The amount of emergency assistance depends upon the size of the family. You must have proof that your tenancy is being terminated for nonpayment of rent and demonstrate an "economic crisis" such as loss of income or unexpected expenses. If you get or already have court papers, you can temporarily stop the court eviction by showing proof of an Emergency Assistance application to the court. Note, however, you can only get Emergency Assistance once every twelve months. (You may also apply for EA under certain circumstances involving domestic violence).
- ☞ Job Access Loans: There is no specific limit on the amount of such a loan, but you must pay it back to the W-2 agency. Usually, you can only have one job access loan out at one time. 
- ☞ Other assistance: Different W-2 agencies have different policies. Talk to someone at the agency about what assistance is available and how it works.

FOR MORE INFORMATION AND ASSISTANCE

If your landlord takes you to court or you are denied assistance by the W-2 agency, you should contact Legal Action of Wisconsin. You can call 278-7722 for information on our hours and the services we provide. The Legal Aid Society of Milwaukee also represents low-income tenants in eviction cases and other housing matters. Legal Aid's number is 727-5300.

If your landlord is not making necessary repairs, call the Building Inspector at 286-2268 and Community Advocates at 449-4777. The Building Inspector can order the landlord to make repairs. If the landlord doesn't make the repairs, you might be able to pay rent to the Inspector's office instead of the landlord. Community Advocates can help you withhold a part of the rent until the repairs are made. The Inspector's office can also fine a landlord for not making ordered repairs.

If your landlord tries to lock you out without getting an eviction, call your district police station for help getting back into your home. If the police will not help you, contact Legal Action of Wisconsin.

If you have already been evicted and need help finding shelter, call: 211. Once you find a place to move to you can contact Community Advocates at 449-4777 for help to pay your security deposit and first month's rent.

This handout is intended to provide general information only and is not a substitute for thorough and specific legal advice on an individual case. Depending on the complexity of your problem, you may need to consult an attorney for advice or representation.

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