

Rental Property Issues

Special Interest

- Two types of evictions
- A) No reason needed
- B) For violating a rental term

Individual Highlights:

| | |
|------------------|---|
| The Eviction | 2 |
| Rent & Damages | 3 |
| Rent Escrow | 4 |
| Release of Rent | 5 |
| Prohibited Acts | 6 |
| Security Deposit | 6 |

The Carroll County Municipal Court

EVICCTIONS

The purpose of this portion of the newsletter is to provide an overview of several issues involving the eviction of an individual from their home.

An eviction may be started for "no reason". If you want to evict someone for "no reason", a longer advance notice to that person is necessary.

If you want to evict someone for "no reason", you must give them an

advance notice equal to the length of their rental agreement.

If someone rents from month to month then you must give a 30 day notice to leave the property. If someone rents on a yearly basis, a year's notice to leave the property is required.

If someone violates a term of the rental agreement, such as not paying rent when due, only a three

day notice to leave the property is needed.

The three day notice excludes the day of service, weekends and holidays.

This advance notice must be given before an eviction action can be filed in this Court.

These notices are called NOTICE TO LEAVE PREMISES and are available at the Court.

Notice To Leave Premises

The purpose of a notice to leave the premises is to advise the renter that they are being asked to move from the property.

It must be addressed to the person or persons you rented to.

The location of the property must be listed.

The reason for the notice, if there is a reason, must be listed. i.e. non-payment of rent, presence of pets, etc.

You may give the renter a time to correct or comply

with the rental agreement before you would file an eviction action in this Court. However, you do not have to give the renter time to correct or comply with their violation with the rental agreement.

The notice must contain the words "You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal

assistance"

The notice must be dated and served on the renter by either certified mail, return receipt requested, or by handing a written copy of the notice to the renter(s) in person or by leaving it at the premises from which the renter is to be evicted.

A copy must be kept by the landlord and a copy must be attached to a complaint to evict an individual.

The Complaint



After serving the Notice To Leave The Premises and the renter does not move out, then a complaint can be filed in this Court.

The complaint is called an Action In Forcible Entry and Detention.

It is alleging that the renter is unlawfully and forcibly detaining the property from the landlord.

This legal action has a two

step process. The first is for the Court to determine that the renter has violated a rental term. If the Court agrees then it will order the renter to leave the premises.

The second step will take place a few weeks later. That hearing will determine if there is rent owed or damages that must be paid for by the renter. It will also determine what happens

to the security deposit that the landlord is holding.

The complaint is a legal document that is available at the Court but the Clerks of the Court CAN NOT help with the filling out of the document or give ANY advice. Doing so they would be practicing law and they are not allowed to do that.

“A man’s home is his castle and he should be permitted to live there without interruption”

Service of the Complaint

When the clerk is handed your complaint, a copy of the Notice To Leave Premises and the court costs of \$75.00 she will be required by law to mail by ordinary mail the complaint and a summons that she will prepare to the renter(s) you list on the complaint and to the address that you have provided.

In addition to ordinary mail service the clerk shall also

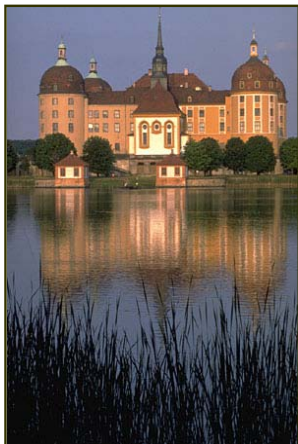
cause service to be completed either by the Sheriff of Carroll County or by certified mail, return receipt requested, which ever method is requested by the landlord.

Once the Sheriff receives the complaint to serve on the renter his office has five days to make service and return the process to the clerk

Generally the Clerk will try

to schedule a hearing within 14 days from the date the complaint is filed, but service of the complaint controls when the hearing will be held.

If the landlord accepts rent after the complaint is filed the case MUST be dismissed according to Ohio law and there will be no refund of the court costs.



The Eviction Hearing

At the hearing you will be in court so appropriate dress is important. Don’t wear jeans or shorts. Don’t wear tee shirts or hats.

Dress pants or slacks and a dress shirt or blouse are appropriate.

Be on time or early. The court will be on a tight time schedule.

You will be sworn in at the beginning of the hearing by a Bailiff.

Have your presentation to convince the Judge why

he should evict the renter well organized.

It might not be appropriate to read your presentation but using notes are a good way to stay organized and succinct in telling your side of the story.

The Eviction Hearing (continued)

You must provide a copy of your Notice To Leave The Premises that you gave to the renter. You must provide a copy of a written rental agreement if there was one and any other documents you want the Judge to consider at the very beginning of your presentation to the Bailiff so the Bailiff can give them to the Judge.

You may testify as to the reason you are filing the eviction action.

When you have completed your presentation the renter will be given a chance to tell their side of

the story. The Judge does not want anyone to interrupt the other person when they are talking.

The Judge will have questions and you may be interrupted by him with those questions. Try to succinctly answer them and then resume your presentation.

If you have any witnesses you want to testify be sure to tell the Judge when you are done telling your side of the story.

The renter may have documents and witnesses so be patient and let them

have their opportunity to tell their side of the story without interrupting.

There may be a chance that the Judge will ask you how soon you want the renter to be ordered out of the premises. Be prepared to tell him when you want the renter out.

Be aware that if there are little children present their safety will be a concern for the Judge, however you as the landlord should not have to provide them a place to live if you are not being paid rent.



Sometimes a picture is worth a thousand words.

The Second Step of the Process

A few weeks later there will be another hearing that you will need to be present for as a landlord.

This will be your chance to convince the Judge that you are owed back rent. Have your records well organized and have a copy to give the Judge at the beginning of your presentation.

If you are going to ask for unpaid utilities bring a copy of the utility bill. If you are asking for payment of damages to the property bring the

receipts for the cost of the repairs.

If you spent money on paint bring the receipt for the paint. If you are asking for cleaning supplies you had to use have those receipts for those supplies.

If you are going to have to have something repaired that you did not get repaired before the hearing have a written estimate for the Judge to view.

This written estimate must

be by a qualified repairman that makes a living doing that kind of work.

You should have two copies of all of your documents. One is for the Judge that you will give to the Bailiff at the beginning of the hearing and one is for the renter.

You will be sworn in and given a chance to tell your side of the story.

The renter will have a chance to tell their side of the story.

“Pictures can be helpful but they must be able to be seen. Proper lighting to show stains or other damages can be hard to accomplish.”

Renters Have Rights Too

“Renters are protected by Ohio law as well and have rights that are available to protect themselves.”

Ohio law provides a way for a renter to pay their rent to the Court when the landlord does not properly take care of the property.

If the landlord does not make repairs to put and keep the premises in a fit and livable condition, or fails to keep all common areas in a safe and

sanitary condition the rent can be paid to the Court.

If the landlord violates any health or safety codes, fails to maintain in good and safe working order all electrical, plumbing, sanitary, heating, ventilating or air conditioning supplied by him the rent can be paid

to the Court.

The landlord must supply running water, reasonable amounts of hot water and reasonable heat at all times and the landlord cannot abuse his right to inspect the premises.

A complete list of a landlord’s obligations are at O.R.C.5321.04

Application To Pay Rent To The Court

Before a renter can pay the rent to the Court there must be certain steps taken.

O.R.C. 5321.07 sets forth all the requirements that a renter must meet before they should apply to the Court to deposit the rent with the Court.

The renter must deliver to the landlord a Notice.

This Notice should detail the ways the landlord has failed to comply with the law regarding the premises.

This Notice should be sent to the Landlord by certified mail, return receipt

requested to the place where rent is normally paid.

If the repair is not made within a reasonable time or at least within 30 days of receiving the Notice, then the renter may apply to the Court to deposit the rent with the Court.

Applying to Deposit Rent at the Court

“The power of the purse is placing the rent with the Court to get the landlord to make a necessary repair.”

A renter may fill out the “Application to Deposit Rent With The Court”, but the renter MUST be current in their rent payments with the landlord.

The application is available at the Court. The Clerks cannot help you fill the form out or give you advice.

Be aware that the acceptance of the rent by the Clerk does NOT mean

that you have successfully met with all of the requirements of O.R.C. 5321.07.

If you have not complied with that section then your rent escrow attempt might not be successful and your landlord might be able to recover the rent and proceed with an eviction.

Therefore you are urged to comply with all of the

requirements of O.R.C. 5321.07 and to do so before you make your rental deposit with the Clerk.

If you have followed all of the requirements of O.R.C.5321.07, the landlord cannot evict you for paying the rent to the Court.

More on Rental Escrow

If paying the rent to the Court does not get the landlord to make the necessary repairs, the renter may apply to the Court for an order directing the landlord to remedy the condition.

The renter can also apply for an order reducing the periodic rent until the landlord remedies the condition.

The renter may apply for an order to use the rent deposited with the Court to remedy the condition.

The renter may also ask the Court to terminate the rental agreement.

If the landlord does not

remedy the condition in a timely fashion, the renter can request the Court to hold a hearing.

The hearing will require that the landlord and the renter appear in Court.

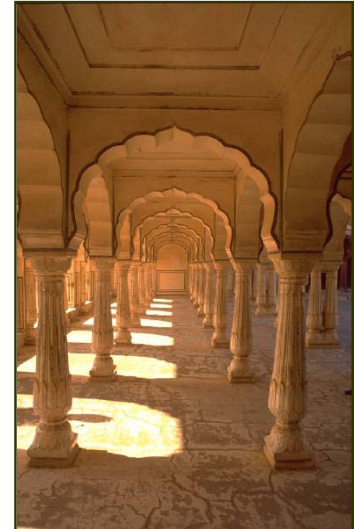
Each person will be sworn in and the Court will ask questions about the conditions and inquire as to a possible solution.

The Court will make orders that will address all of the issues that gave rise to the rent escrow.

At this hearing each party must bring any and all evidence they want the Court to consider.

If it is pictures or written documents they must be presented to the Bailiff at the beginning of your presentation. The Bailiff will give them to the Judge, so you will need copies for yourself and for the other party (landlord or renter).

Organize your presentation and be succinct. If you need notes to keep organized be sure to bring them with you. If you have any witnesses be sure to tell the Judge you want other people to testify.



Do not let the halls of justice intimidate you.

Release of The Rental Escrow

A landlord who receives notice that the rent due has been deposited with the Court may apply to the Clerk for release of the rent on the ground that the condition contained in the notice has been remedied. The Clerk shall release the rent if the tenant gives written notice to the Clerk that the condition has been remedied.

The landlord can apply for release of the rent on the ground that the renter was not current in rent payments at the time the renter initiated the rent

deposits with the Court.

The landlord may apply for release of the rent on the grounds that there was no violation of any obligation imposed on him by O.R.C. 5321.04

The renter must be named as a party in the action filed by the landlord under this provision and the renter shall have the right to file an answer and counterclaim as in other civil matters.

A hearing will be held within 60 days of the filing of the landlord's complaint

to recoup the rent.

Standard court costs for a civil action must be paid by the landlord at the time of filing his complaint.

The Court may release all or part of the rent or none of the rent based upon the evidence produced at trial.

This hearing will require all parties to be present and that all evidence be presented to the Court to help it make an accurate decision.

"To release the rent from escrow there must be an agreement between the landlord and renter or a complaint filed by the landlord"

Actions That Are Prohibited By Law

Southeastern Ohio Legal Services
 provide free representation in civil matters such as rental property issues to people who cannot afford an attorney.

PHONE:
 1-800-686-3670

Ohio Revised Code Sections referred to in this pamphlet Are O.R.C.
 1923.04
 5321.03
 5321.04
 5321.07
 5321.09
 5321.10
 5321.13
 5321.15
 5321.16
 5321.17

This pamphlet was written and published by Judge Charles A Johnston

© 2008

A landlord of residential premises cannot terminate utilities or services for telephone, gas, electric, heat, air conditioning, cable, or trash removal from the premises or threaten any unlawful act against a tenant for the purpose of recovering possession of the premises

No landlord shall seize the furnishings or possessions of a tenant for the purpose of recovering rent payment other than in accordance with an order issued by a court of competent jurisdiction.

A landlord who violates these provisions is liable in a civil action for all

damages caused to a tenant together with reasonable attorney fees.

No agreement to pay the landlord's or tenant's attorney's fees shall be recognized in any rental agreement for residential premises or in any other agreement between a landlord and tenant.

SECURITY DEPOSIT

A landlord shall within 30 days from termination of the rental agreement return the security deposit or in a written notice explain in detail any reduction in the security

deposit that is being sent to the tenant.

If the landlord does not do this then the tenant can sue for the security deposit plus damages in an amount equal to the wrongfully withheld

amount and attorney fees.

The tenant shall provide the landlord in writing with a forwarding address or new address to which the written notice and amount due from the landlord may be sent.

Warning!!

The Carroll County Municipal Court is not authorized nor does it render legal advice. The above information is provided to you only as public service to help

you understand some of the statutory requirements of the laws in Ohio that deal with rental property and the rights and duties of landlords and tenants.

If you are in doubt about what you are doing CONSULT LEGAL COUNSEL before trying to proceed with these important legal issues.

CLERKS OF THE COURT

Vanita Leggett
 Darcelle Williams
 Dolly Easterday
 Terri Fox

JUDGE CHARLES A. JOHNSTON

**CARROLL COUNTY MUNICIPAL COURT
 119 S. LISBON ST. SUITE 301
 CARROLLTON, OHIO 44615
 LOCATED ON THE THIRD FLOOR
 OF THE CARROLL CO. COURTHOUSE
 PHONE: 330-627-5049
 FAX:330-627-3662**