



# Office of the Sheriff

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## Milwaukee County Sheriff's Office Steps for the Eviction Process

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*Sheriff*

### **WHAT IS AN EVICTION?**

An eviction is the removal of a tenant by the landlord from a rental property, when the tenant seriously violates the lease or rental agreement.

### **IN WISCONSIN A TENANT CAN ONLY BE EVICTED BY A COURT ORDER ISSUED BY A JUDGE**

### **TYPES OF NOTICES & SELECTING THE PROPER NOTICE**

All eviction actions begin with a properly served notice to vacate. In Wisconsin the notices typically used are 5-, 14-, and 28-day notices. There are several types of termination notices:

- 1. 5-Day Notice to Quit or Pay Rent** is a warning that the tenant is late with rent. The landlord can only give this notice at a point when the rent is late. This notice allows a tenant to cure the problem and stop the eviction. By law, the landlord must allow at least 5 days to pay all overdue rent, not counting the day the notice was served, holidays or weekends, according to Wis. Stat. 801.15(1).
- 2. 5-Day Notice for Non-Rent Violation** is a warning that the tenant has caused a disturbance, damaged property, or violated a lease rule. The landlord has to allow the tenants at least 5 days to promptly take "reasonable steps" to stop the violation, or make a "reasonable offer" to pay the landlord in the case of damages to the unit.
- 3. 5-Day Notice With-No-Right-To-Cure, Notice to Vacate-Nuisance Drugs.** If you, the landlord, received a "drug nuisance letter," it will require the tenant to vacate within 5 days.
- 4. 14-Day No-Right-To-Cure Notice** orders the tenant to move within a period of at least 14 days even if the tenant fixes the problem. This notice is given to week-to-week and month-to-month tenants.
- 5. 28-Day Notice Terminating Tenancy** – this notice is to evict without conditions to fix or pay rent.

Notices must be in writing and include the date, the rent due or the lease clause that the tenant violated, or the rent owed, the type of notice, and the right to cure the problem, if the tenant has one.

## SERVING THE NOTICE

It is very important to properly serve the 5-, 14-, or 28-day notice. The most common cause of a landlord losing an eviction is improper service of the notice. There are four basic methods:

1. **Personal delivery to someone at the premises** - giving the notice to the tenants; giving a copy to a family member who is at least 14 years of age, and telling them it's an eviction; leaving a copy with an occupant over 14 years of age, and also mailing a copy by regular mail to the tenant.
2. **Service by certified mail**- if you choose this method, add two (2) days to the time period.
3. **Service by securely posting the notice** on the entrance door and mailing the notice by regular mail the same day.
4. **Service via the Milwaukee County Sheriff's Office (\$75 charge)** via a Civil Process Unit deputy attempting service on the papers.

## PREPARING FOR COURT

After the expiration of the notice, the first step is to complete the following forms:

- **AN EVICTION SUMMONS**
- **COMPLAINT FORM**
- **AFFIDAVIT OF NON-MILITARY SERVICE FORM**
- **AFFIDAVIT OF SERVICE FOR THE NOTICE TO VACATE**
- **You will need 5 copies**

\*\* If you start the case before the notice has expired, the case will be dismissed and you will need to start over.

Once all forms are correctly filled out, go to Room 104 of the Milwaukee County Courthouse, 901 North 9<sup>th</sup> Street to pay the court fee. The fee is approximately **\$98.00** and includes:

- forms being notarized, if not already done,
- case number issued,
- a court date being issued. The cashier will keep the original for the court file. The clerk will place a case number and file stamp on all of the copies.

## SERVING THE SUMMONS AND COMPLAINT

Serving the Summons and Complaint is slightly different than serving the 5-, 14-, or 28-day notices. The Summons and Complaint must be served by a third person, who is not a party to the action, who is at least 18 years of age and a resident of the State of Wisconsin. The Summons and Complaint must be served no less than 5 days before the court date; weekends and holidays do not count.

There are a number of private process firms that can also serve the Summons and Complaint. The Milwaukee County Sheriff's Office can attempt service of the notice. The fee is **\$75** with 3 attempts unless otherwise specified by the landlord/property owner.

Once the Summons and Complaint has been served, the person who served it must fill out an Affidavit of Service form. **Bring the original copy of the Affidavit of Service to court with you.**

*\*\* If you cannot find the tenant, you can have the information published, normally in the "Daily Reporter" newspaper\*\**

## **AFTER COURT**

### **Step One**

If the Court rules in your favor for the eviction, you will be given an "Order" for a Writ of Restitution. After getting the Order you must go to Room G-9 of the Milwaukee County Courthouse (901 North 9<sup>th</sup> Street) to obtain the "Writ of Restitution." The fee for this is **\$5.00**. (**Note: these are two separate forms**).

### **Step Two**

Take the Order, the Writ, an extra set of keys (if you prefer) and a *Letter of Authority*\*, (which is a letter from a certified, bonded mover, with a storage facility in Milwaukee County) to the Milwaukee County Sheriff's Office Cashier located in the Safety Building, 821 W. State Street (Room 209), along with a money order or cashier's check for **\$130** made payable to the Milwaukee County Sheriff's Office. Cash is also accepted.

\**Letter of Authority* is a letter indicating that you have contracted with one of the bonded moving companies used by the Sheriff's Office. These companies are:

- Aetna Moving & Storage, Inc. 414-645-9300
- Eagle Moving & Storage Co. 414-383-1776
- J.C. Triplett & Sons Moving & Storage 414-353-9780
- Dwyer Moving & Storage Co. 414-771-8171

### **Step Three**

The Sheriff's Office will then mail the tenant a notice. The Milwaukee County Sheriff's Office has **ten days** to move the tenant from the date that the paperwork was turned over to the Cashier. If the tenant moves prior to the Milwaukee County Sheriff's Office executing the move, immediately call the eviction **cancellation line at (414) 278-5123** to cancel the move. This will save money, minus the cancellation fees. The Sheriff's Office will contact the landlord on the day of the move so please provide contact telephone number(s) to the Sheriff's Office.

## **ANY QUESTIONS - PLEASE CONTACT**

1. Email Lieutenant Donald Kernan at donald.kernan@milwcnty.com
2. 414-278-4140 – Milwaukee County Clerk of Courts, Civil Division;
3. Attend the Self Help Clinic, Thursdays and Fridays from 2-4pm in Room G9 of the Milwaukee County Courthouse (901 North 9<sup>th</sup> Street);
4. Consult with a real estate attorney for legal advice.