

Unlawful Eviction Toolkit:

What to do if your landlord evicts you without a court order & sheriff's notice

Your landlord may not cut off your utilities, lock you out of your home, or evict you without giving notice and going to court. You do not have to move out just because your landlord tells you to leave or because they file an eviction lawsuit (called a “Summons for Unlawful Detainer”) against you. Your landlord *must* wait until they win in court, and then they can file for the local Sheriff’s Department to evict you.

If your landlord cuts off utilities, locks you out, or evicts you without giving notice and going to court, you have a quick remedy by filing a lawsuit (called a “Tenant’s Petition for Relief from Unlawful Exclusion”) against your landlord. Contact your local legal aid by calling 1-866-LEGL-AID or get legal advice from the Eviction Legal Helpline (1-833-NoEvict.)

Where to file: Go to the General District Court in the city or county where your home is located and file a lawsuit called a “Tenant’s Petition for Relief from Unlawful Exclusion (Form DC-431).”

- You can use the form that is attached or ask the clerk for Form DC-431.
- You can file this on your own, by yourself, without an attorney.

How to fill out the form: When you fill out the Tenant’s Petition, you fill in the name and physical address of the true owner of the property as the Defendant-Landlord.

- If you are not certain about the name and physical address of the true owner of the property, you will have to do a real property search. Google “real property search” and your County or Independent City. For example, “Richmond real property search.”
- If the true owner is not a natural person – for example, a corporation or a limited liability company (LLC) – there is one more thing you have to do. You must get the name and physical address of the registered agent of the company. To get this, call the Virginia State Corporation Commission at 804-371-9733 or 866-722-2551 or go on their website (<https://cis.scc.virginia.gov/EntitySearch/Index>) and enter the name of the company where it says “Entity Name” and look for the information for their registered agent under “Registered Agent Information.”
- When you fill out the lawsuit, you fill in the name of the company as the Defendant-Landlord, and the name and physical address of their registered agent.
- When you fill out the lawsuit, you need to decide what you want the judge to do. You can ask the judge for any of these things: allow you back into the house (i.e.—to recover possession), turn back on your utilities, end the rental agreement, or get back any money you had to spend because you were locked out (i.e.—recover your actual damages) and attorney’s fees. Beginning July 1, 2021, you can also ask for something called “statutory damages,” which is a monetary penalty that the judge will order the landlord to pay you if you win the case. You can ask for statutory damages of \$5000 or four months’ rent, whichever is more.

Pay the filing fee: Filing the case and having the sheriff serve the lawsuit on your landlord will cost about \$58. You can ask the clerk for the exact amount.

- You may ask the clerk for a “Petition for Proceeding in Civil Case without Payment of Fees or Costs” (Form CC-1414) if you can’t afford to pay the fee. But, this may cause a delay in your case.
- You should send a letter with a copy of your lawsuit to your landlord to let them know you have filed a lawsuit against them.
- Keep a copy of the form and the letter to your landlord.

Setting the court hearing date: After filing your lawsuit, the court sets a hearing date and has the landlord served to make sure they know to come to court.

- Your court date should be heard quickly; beginning July 1, 2021, it must be heard no more than five days after you file your lawsuit.
- If you do not come to court on your trial date, the court will dismiss your case. If you come to court and the other side does not, you should get an order for the relief you requested (such as terminating the lease or requiring the landlord to let you back into your home) but the judge may set another court date on damages (money.)

Preparing for your case: Before the hearing date, get your evidence together and practice what you want to tell the judge.

- Ask the clerk to help you subpoena witnesses who have agreed to come to court.
- Subpoenas cost \$12 each, unless your filing fees were waived.
- Gather evidence, such as a copy of your lease if you have one, text messages or emails with your landlord, receipts, and pictures.

What happens at your court date:

- When the case is heard, you will present your evidence first.
- The landlord or judge may ask you questions. Then the landlord gets to present evidence and witnesses.
- You can question them about what they have said, but don’t argue with them.
- If both sides come to court, the judge will hear both sides and decide who wins.

What to do your landlord continues to harass you after you file your case: If you feel comfortable doing so, call the police.

- Be prepared to show the police your copy of the “Unlawful Exclusion” lawsuit.
- Call your local legal aid for further help.

This is general legal information, not legal advice about a specific case. If you have questions or want advice about your individual case, please contact legal aid or VPLC at the phone numbers listed below.

If you are facing eviction, your landlord attempts to lock you out without taking you to court, or you have questions about your rights, contact your local legal aid (1-866-LEGL-AID) or call the Eviction Legal Helpline for advice (1-833-NoEvict.)