

Eviction Procedures

One of the most frequently asked about civil procedures is the eviction process. The Sheriff's Office is prohibited from providing legal advice on how to proceed, but it can give information about its involvement in the process. For detailed information or legal advice, please contact an attorney.

There are three steps involved in a legal eviction. They are listed in order.

Notice to Quit

The first step in this process initiated by the landlord can be a three or thirty day notice. The landlord may desire to have the Sheriff's Office serve this writ. Fees for this are the same as standard service fees for other types of writs. However, there are no statutes that dictate a particular type of service or return day. Sheriff's Office policy is to attempt service as soon as practical, and service could be either personal, residential, or may be accomplished by posting a notice at the residence. The Sheriff's Office does not provide forms for these notices, nor give advice as to their content. It should also be noted that this notice is NOT a court document. It does not order their removal. It is simply telling the tenant that if they have not evacuated the property by the given day, the case will be taken to court for eviction.

Summons

After the service of the notice, should the tenant fail to move, the landlord may then commence suit in one of the courts. The Summons, or notice of suit, may be sent to the Sheriff's Office Civil Division for service. It contains a time and date for trial and must be returned to the court within 3 days of its issuance. Service may be personal or residential. If the landlord prevails at trial, a Writ of Restitution may be issued. Service fees are required for service prior to receiving such writ from the court.

Writ of Restitution

A Writ of Restitution directs the Sheriff to remove the defendant and restore the premises to the Plaintiff. It is the policy of the Sheriff's Office to execute such writs by attempting to obtain voluntary compliance from the defendant in a fashion which minimizes any unnecessary hardship. In the absence of compliance, the Office will execute the writ by removing the occupants personally and/or by changing the locks on the premises. The Office will remove personal property only when specifically directed to do so by court order.

The Writ of Restitution must be executed within ten days of issuance. Because of this relatively narrow window, it will be executed without delay. Service will not be made, however, until the plaintiff has deposited sufficient funds with the Sheriff's Office to cover the reasonably anticipated costs and fees. To expedite the process, the plaintiff should provide a contact name and number.

For more on the Landlord-tenant Act, please visit the link provided below.

www.nrec.ne.gov/legal/landlordacttoc.html