

RENT COURT

What happens when a landlord or a tenant has to take the other to court?

A landlord cannot lock-out a tenant or evict a tenant without a court order.

He/she must take the tenant to court. The court process involving late rent is speedy and straightforward. If the lease does not have a grace period provision, the landlord can file for late rent the day after rent is due, no matter what the reason is that the rent is late. The court will summon the tenant to trial in a “summary ejection proceeding,” normally within five court days after the complaint was filed (court days are week days, except for legal holidays).

If the tenant is seeking to put rent in escrow and has the rent money to give to the court if rent escrow is granted, or to the landlord if rent escrow is denied, then the tenant does not face eviction. However, if rent is due and the tenant either does not have the money for rent or fails to appear in court, the court will decide in favor of the landlord. The tenant will then have 96 hours to pay the rent or leave the rental property. If neither event occurs, the landlord can seek a “warrant of restitution,” which allows the landlord to make arrangements with the constable or sheriff to recover possession of the premises and evict the tenant.

The landlord cannot evict the tenant until the constable or sheriff is present to allow him to do so. Since the landlord must make arrangements for the tenant’s property to be put on the street, it is most practical for the landlord to make sure that the tenant knows the exact time of the eviction and has the opportunity to remove his/her property.

A copy of the “warrant of restitution” is sent to the tenant warning that the tenant may be evicted at any time after the date of application. Since the landlord cannot schedule the eviction until the sheriff or constable is available, it is generally not known at the time of the mailing when the eviction will take place. The tenant can call the constable or sheriff’s office with the case number to ask when the eviction will take place. If, for example, the eviction is scheduled for a Friday and there is an opening due to cancellations, the eviction can take place on Thursday without the constable/sheriff or landlord having to inform the tenant of the change.

A tenant or landlord may appeal the court order within four days after it has been issued. If a tenant appeals, he/she will be required to post bond. The judge may grant and extension of time for surrender of the premises up to fifteen days after the trial if an earlier eviction would endanger the health or life of the tenant (Baltimore City law places no limit on the extension time). In the event of extreme weather conditions, the court may postpone scheduled evictions on a day-by-day basis.

The tenant has the right to redeem the premises by giving cash, a certified check, or money order to the landlord or his/her agent to cover all past due rent and late fees, plus court awarded costs and fees at any time before the eviction occurs. However, the tenant may be denied this right if three or more judgments for rent were entered against the tenant in the 12 months prior to the beginning of the pending eviction action (Baltimore City requires 4 or more judgments).

If a tenant knows that he/she will not be able to pay the rent, he/she should make every attempt to remove at least the best of his/her property ahead of time and seek to store it with friends, neighbors, family, a church, etc.