

Judge Joseph Guillory II
Justice of the Peace, Precinct 2
525 Lakeshore Drive
Port Arthur, Texas 77640
Phone: (409) 983-8325 Fax: (409) 989-3680

Eviction Process

Landlords may evict, or forcibly remove, tenants from rental property in specific circumstances under Texas Laws. Both tenants and landlords have rights in these types of proceedings. In order to have a tenant evicted, the landlord must send a written notice to the tenant before filing a complaint in the local court system.

Requirements

There is more than one situation that allows a landlord to legally evict a tenant under Texas law. A tenant who is behind on the rent stipulated in the oral or written lease agreement or rental contract can be evicted. The actions of the tenant, members of the tenant's household or family, or guests the tenant invited can also result in eviction if the actions included threats or harm to the landlord, any of the landlord's employees or other tenants, or damages to the rental premises, or a violation of the lease agreement. In some types of leases, the tenant can be evicted for staying past the termination date of a lease that was not renewed, regardless of payment of rent.

Notice to Vacate

Before filing for an eviction, the landlord is required by law to give a tenant a notice to vacate the premises. According to the Texas statutes, this notice must be in writing and delivered to the tenant personally if the landlord brings a witness. The landlord can also send the notice by certified mail, with a return receipt requested. After the notice is sent, the landlord has to wait three days before filing for eviction in a local justice of the peace court unless the lease specifies a shorter or longer waiting period.

Filing in Court

If the tenant fails to move by the notice to vacate date, the landlord must file an eviction complaint in the appropriate Justice Court depending on the location of the premises, to initiate eviction proceedings. This complaint has to detail why the tenant is being evicted and give a thorough description of the rental property. The landlord can also ask to be awarded any overdue rent, court costs, and legal expenses incurred. The court will not consider late fees or interest imposed by the landlord in awards. The tenant is issued an eviction citation by the court, advising them of their court date.

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Writ of Possession

If the judge rules in favor of the landlord in the eviction proceedings, the tenant has five days to vacate the premises. This is the length of the mandatory period the tenant has to appeal the court's decision. If the tenant is still living on the premises after five days and has not filed an appeal, the landlord can go to court and request a Writ of Possession. This is an order from a judge to the constable's office directing that the landlord be given possession of the premises. Officers from the constable's office can remove the tenant and personal property from the dwelling.

Warning

Before understanding the legal process for eviction of a tenant, landlords must understand that there is no other legal way to remove a tenant. A self-help or illegal eviction is when a landlord decides to take matters into his/her own hands without following the procedures prescribed by state and local law. To reiterate, it is illegal for a landlord to try and remove a tenant without the use of the court system, and it should never be attempted, no matter how dire the situation may be.

Landlords Should Never

Change a lock

Shut off utilities or permit a utility to be shut off

Remove any of the tenant's personal property from the premises

Disclaimer: This is not to be considered legal advice, but is only to be used as a guideline.

If you have any additional questions in regards to the eviction process you may want to seek legal advice.