



ARLINGTON COUNTY Housing Information Center



EVICTION PROCESS

Eviction for Nonpayment of Rent

The first step in evicting any tenant because of nonpayment of rent is the landlord's issuance of a 5-day notice, which may be sent with a certificate of mailing, or posted on the door by the County Sheriff's Department (Room 9100 of the Courthouse, telephone 228-4460). This notice is a simple statement that if the tenant does not pay the rent within five days of receipt of the notice, the landlord will initiate court proceedings to gain possession of the premises and the rent owed. The notice should name each person on the lease and specify the sum due (see Attachment A). If the Sheriff's office delivers the notice, it requires 2 separate copies for each tenant served, and it charges a small fee for the delivery. A 5-day notice may be given to any tenant who has not paid his rent, even if he is on a long-term lease. It may be given as early as the day after the rent was due.

If the tenant does not pay the rent within five days of receipt of the notice, the landlord may start court process for unlawful detainer, commonly called a UD. The landlord files the UD at the office of the Clerk of the General District Court (Room 2500 of the Courthouse, telephone 228-4590) and the fee is \$18.00. The landlord must fill out a form giving the basic facts about his claim: his name, the tenant's name, the address of the rental property, the amount of rent owed, and the fact that the tenant was given notice (see Attachment C).

A court date is set usually 10 to 20 days after the filing date, depending on the case load of the court. The Sheriff then delivers the summons to the tenant to appear on that date. The landlord also is required to mail a copy of the summons to the tenant and to file a statement attesting to the court that the mailing occurred. Until that court date a tenant has the legal right to avoid eviction by paying the landlord the full amount due (including reasonable attorney's fees and late charges, as well as rent).

The landlord's acceptance of payment of rent waives his right to terminate the tenancy, unless he gives the tenant written notice that he is accepting the rent with reservation and still intends to regain possession. However, the State law gives a tenant the right to redeem the tenancy before the case is heard in court by paying the landlord all rent due plus legal and other costs. A tenant may exercise this right only once in any 12-month period with the same landlord.

This is in no way intended to serve as a substitute for competent legal advice. This information is offered as a description of the procedures that are generally followed in evicting tenants. If you have specific legal questions, consult an attorney, Arlington Legal Referral Service or Legal Aid.

Other Evictions: Tenants on Month-to-Month Leases

To regain possession of a unit occupied by a tenant who is not on a long-term lease, the landlord must give the tenant at least 30 days notice to vacate the unit (see Attachment B). Paragraph 1, page 1 describes the proper method for giving notice. If the tenant does not vacate on the specified day, the landlord must file for a Summons for Unlawful Detainer, as described in paragraph 2 on page 1.

Other Evictions: Tenants on Long-Term Leases

A tenant on a long-term lease can be evicted only for failure to pay the rent (see page 1) or to abide by the terms of the lease. A landlord may give a 21/30-day notice specifying the nature of the lease violation and instructing the tenant to correct the violation within 21 days or vacate nine days later (see Attachment D). Such a notice may be given on any day in the month and may be mailed or delivered by the Sheriff's office. If by the thirtieth day the tenant has neither complied with the lease nor vacated, the landlord must obtain a Summons for Unlawful Detainer and schedule a court hearing in order to evict the tenant.

If a landlord has given a 21/30-day notice to a tenant on lease, the judge will require the landlord to prove that the tenant has, in fact, substantially violated the lease (by such actions, e.g., as making excessive noise, operating a business on the premises, keeping a pet, housing in the unit more persons than were on the original application form) and has not corrected the violation after being given notice to do so.

Court Proceedings in Eviction Cases

The first court hearing, usually set for 2:00 P.M. , is for the purpose of determining whether judgement should be granted quickly or a further hearing is necessary. If the case is not contested by the tenant, judgement will usually be given for the amount of rent due at the time the UD was filed, and for possession of the premises.

When an eviction is contested by the tenant, a second court date is scheduled for a full hearing of both sides of the issue. Civil Court is held in room D on the third floor.

In a case involving a 30-day notice to a tenant on a month-to-month lease, the landlord is not required by law to give any reason for the eviction, but simply to show that the tenant received proper notice. In a UD hearing resulting from 5-day notice because of unpaid rent, the judge will usually grant the landlord possession if the rent has not yet been paid. The judge is not required to listen to a tenant's account of extenuating factor (e.g., poor maintenance or difficult personal financial circumstances).

Retaliatory Eviction

The Virginia Residential Landlord and Tenant Act protects tenants from certain types of retaliatory eviction. A tenant otherwise in compliance with the lease cannot be evicted simply for 1) complaining to the landlord about a violation of State law or the County housing code, 2) complaining to Arlington County Community Inspections about a serious code violation, 3) organizing or joining a tenants' association, or 4) testifying against the landlord in court. If a tenant feels the eviction is solely for one of these reasons, he can ask the judge to consider the details of the case.

Appeal Period and Writ of Possession

Sometimes immediate possession is granted if the landlord presents a credible request. Usually, however, the tenant has ten calendar days to appeal an eviction to Circuit Court. In order to appeal, the tenant must post bond of whatever amount the judge decides.

After the Writ of Possession (Attachment E) is prepared, the Clerk of the Court sends it to the County Sheriff, who sets an eviction date. After court judgement, only the landlord can stop eviction.

Actual Physical Eviction

Few cases in Arlington require a Sheriff-supervised eviction, because most tenants move after the landlord gets court judgement for possession. When special circumstances prevent a tenant from making arrangements for storage of personal effects, either the tenant or the landlord should contact the County's Emergency Services Unit (228-5600).

The Sheriff's office does not pursue evictions when it is raining or snowing, or when there is a significant chance of either. Evictions are not scheduled for Sundays or holidays.

When furniture is left in the rental quarters, the Sheriff supervises removal of dangerous articles (firearms, knives, arms).

Redemption of Tenancy

If a tenant, having received an unlawful detainer based upon default in rent, shall at any time before the court date, pay to the landlord all rent owed, any reasonable attorney's fees, late charges, interest and costs, then all further proceedings on the unlawful detainer shall cease.

A tenant may use this right of redemption of tenancy no more than one time during any twelve-month period of continuous residency in the rental dwelling unit.

Attachment A

5 Day Notice to Pay or Quit

Dear _____:

You are hereby notified that you have five (5) days to pay to the undersigned office rent now due from you in the amount of \$_____ as set forth below or your right to possession of the above referenced premises will cease and you must quit the same.

The amount set forth below should be remitted to this office within aforesaid five (5) day period in the form of money order or certified check. Personal checks will not be accepted. If it should become necessary to institute further legal action, it may result in legal fees and court costs being assessed against you.

In the event you do not satisfy all the requirements of this five (5) day notice by paying the amount set forth below and do either voluntarily or by court order leave the premises, you will still be obligated and responsible for payment of monies set forth below, together with any additional costs, legal fees, expenses and rents that continue to accrue because of non-payment.

Furthermore, if you do not pay rent due within this five (5) day period and do not quit the premises, legal action will be instituted for possession of the premises referenced above, rent, attorney's fees and other costs.

Sincerely,

_____	Base Rent:	\$
_____	Late Charge:	
_____	Base Rent:	
_____	Late Charge:	

Five day notice service charge:

Other: _____:

TOTAL DUE WITHIN FIVE DAYS:

DATE SERVED:

Attachment B

30 Day Notice

May 27, 2000

Mr. William Tenant

2714 Canal Street
Apartment 506
Arlington, Virginia

Dear Mr. Tenant:

You are hereby notified to vacate your apartment by June 30, 2000. If you have not vacated the unit by that date, I will institute court proceedings for eviction.

Sincerely,

Ann Landlord

ATTACHMENT C
SUMMONS FOR UNLAWFUL DETAINER

VA. CODE ANN. § 8.01-124

Arlington County General District Court
CITY OR COUNTY
1425 N. Courthouse Road, Arlington, Virginia 22201
STREET ADDRESS OF COURT
TO ANY AUTHORIZED OFFICER: Summon the Defendant(s) as provided below:
TO THE DEFENDANT(S): You are commanded to appear before this Court on
July 28, 1995 2 p.m. to answer this civil claim.
DATE AND TIME

DATE ISSUED CLERK DEPUTY CLERK MAGISTRATE

CLAIM AND AFFIDAVIT: Defendant(s) unlawfully detains and withholds from Plaintiff(s):
762 Weston Avenue, Apartment #3, Arlington, Virginia
ADDRESS/DESCRIPTION OF DETAINED PROPERTY

and that the Defendant should be removed from possession based on the following:
 unpaid rent
and further that rent is due and owing and damages have been incurred as follows:

\$ 550 rent due for July 1995 and
RENT PERIOD
Interest and \$ 15 late fee and \$ 45
damages for unpaid water bill
BASIS OF CLAIM
\$ 18.00 costs, and \$ 150 attorney's fees

PLAINTIFF(S) PLAINTIFF'S ATTORNEY
 PLAINTIFF'S AGENT PLAINTIFF'S EMPLOYER

Subscribed and sworn to before me this day

DATE CLERK DEPUTY CLERK MAGISTRATE
 NOTARY PUBLIC (My commission expires.....)

CASE DISPOSITION
JUDGMENT that Plaintiff(s) recover against named DEFENDANT(S)
possession of the premises described above, and rent, in the sum of
\$ with interest and \$ late fee, and \$ damages
\$ costs, and \$ attorney's fees.
HOMESTEAD EXEMPTION WAIVED? YES NO CANNOT BE DEMANDED
JUDGMENT FOR NAMED DEFENDANT(S)
NON-SUIT DISMISSED
Defendant(s) Present? Yes No

DATE JUDICIAL

Attachment D
21/30 Day Notice

June 20, 1999

Mr. James Tenant
1733 14th Road, South
Arlington VA 22201

Dear Mr. Tenant:

You are hereby notified that you are in breach of Section 14 of your lease which specified that no pets are allowed in the leased premises. If you do not remove your dog within 21 days after receipt of this letter, you must vacate your apartment by June 20. If you have not vacated the unit by that date, I will institute court proceedings for eviction.

Sincerely,

John Landlord