

# Court Eviction

“An Unlawful Detainer” is a legal notice to appear in court because your landlord wants to evict you. This means the landlord wants the Court to order you to move out of the apartment or house you are renting.

## What Will Happen

**Notice.** The landlord issues the tenant a notice. This notice could be for nonpayment of rent, breach of lease or termination of lease. This permits him to file an unlawful detainer at the general district court after the time specified in the notice.

**Court appearance.** The date of the court appearance is the date shown on the Unlawful Detainer. In court both the tenant and landlord (or his attorney) will be called forward. At this time the tenant may contest the charges and ask for a trial date.

**Judge’s decision.** It is possible that the landlord will be granted possession at this appearance if you owe rent. This is particularly true if you didn’t pay past due rent within the five days allowed by the 5-Day Notice.

If the judge does decide that the landlord has the right to evict you, a judgment will be issued against you. Unless you appeal that judgment within 10 day’s an order will be issued telling the Sheriff to supervise the removal of your property from the apartment. Eviction takes place approximately 15 days after the court date, and your furniture will be removed to the curb outside. You should receive a notice posted on your door by the Sheriff’s Office a few days before the eviction is scheduled to take place.

**Appeal.** If the judge decides your landlord is right and you are wrong, you can appeal the judgment against you within ten days. You may have to post a bond to appeal. The case will be heard again in the Arlington Circuit Court. You are not required to have an attorney. In an appeal, however, it is best that you have one, because the landlord will have one.

## What You Can Do

Talk to your landlord immediately to try to resolve the problem. Find out why you are being evicted. The law does not require the landlord to tell you why unless the reason is unpaid rent. If you are being evicted for unpaid rent, you will need to give your landlord a reasonable schedule for paying past as well as future rent. There have been several actions taken by different federal and states to minimize eviction due to the COVID-19 emergency. See the following links to see if they will apply to you:

- [HUD Tenant Guidance](#)
- [Legal Services of Northern Virginia Model Affidavit](#)
- [Legal Services of Northern Virginia Declaracion Jurada](#)

To be protected by the CDC's eviction moratorium for nonpayment of rent, qualified renters facing eviction should immediately provide a signed declaration to their landlords:

- [Overview of National Eviction Moratorium](#)
- [National Eviction Moratorium: FAQ for Renters](#) (translated into [Spanish](#))
- Sample declarative statements in [English](#), [Spanish](#), [Simplified Chinese](#), [Traditional Chinese](#), [Tagalog](#), [Vietnamese](#), and [Arabic](#).

The general Assembly of the State of Virginia instituted eviction protections. This became effective when the governor signed the budget. The budget prohibits evictions for non-payment of rent through December 31, 2020, which is stronger than current federal protections. After January 1, 2021, the budget requires landlords and tenants to work together to access rent assistance, including through the RMRP, before proceeding with an eviction.

Through December 31, 2020:

- Landlords cannot take any action to evict a tenant for non-payment of rent unless:
  - The landlord gives the tenant a written notice stating how much the tenant owes. The notice must include information about the [Virginia Rent and Mortgage Relief Program](#) (RMRP) and how to reach 2-1-1 Virginia for other rental assistance programs; and
  - The tenant refuses to apply for the Virginia Rent and Mortgage Relief Program and refuses to cooperate with the landlord in applying for the RMRP.
- Landlords who own 5 or more rental units or a 10% interest in 5 or more rental units must follow an extra step before taking any action to evict a tenant for nonpayment of rent:
  - The landlord must offer the tenant a payment plan without late fees. a. The landlord cannot evict unless the tenant refuses to enter into the payment plan or misses a payment. But the landlord only has to enter the tenant into a payment plan one time per lease period. The tenant can enter the payment plan AND apply for rent relief.
  - To get on a payment plan the tenant must:

- Agree to the payment plan in writing;
- Give the landlord a signed statement that the tenant has lost income and/or had increased expenses due to the COVID-19 crisis.

Starting January 1, 2021 through the end of the COVID-19 State of Emergency:

- Landlords cannot take any action to evict a tenant for nonpayment of rent unless:
  - Landlord gives the tenant a written notice stating much the tenant owes. The notice must give the tenant 14 days to pay rent owed; include information about the Virginia Rent and Mortgage Relief Program (RMRP) and how to reach 2-1-1 Virginia for other rental assistance programs.
  - Landlord must apply for RMRP on the tenant's behalf within 14 days of sending the default notice. If the tenant tells the landlord that he or she is applying directly for RMRP, the landlord does not have to apply for RMRP on the tenant's behalf. The landlord must cooperate with the tenant in applying for RMRP and the tenant must cooperate with the landlord in applying for rent relief.
  - Rent relief from RMRP is denied for one of the following reasons:
    - The tenant refused to apply for the RMRP **and** refused to cooperate with the landlord in applying for the RMRP;
    - The RMRP application is not approved by the agency within 45 days after it was submitted;
    - The application was denied because the tenant is ineligible for rent relief; or
    - The RMRP has run out of rent relief funds.
  - Landlords who own 5 or more rental units or 10% or more interest in 5 or more rental units must take an extra step before taking any action to evict a tenant for non-payment:
    - The landlord must offer the tenant a payment plan without late fees.
      - The landlord cannot evict unless the tenant refuses to enter into the payment plan or misses a payment. But the landlord only has to enter the tenant into a payment plan one time per lease period. The tenant can enter the payment plan **AND** apply for rent relief.
      - To get on a payment plan the tenant must:
        - Agree to the payment plan in writing; and
        - Give the landlord a signed statement that the tenant has lost income and/or had increased expenses due to the COVID-19 crisis.

Appear in court unless the Landlord cancels the summons in writing. You will lose your case if you do not go to court on the date on the Unlawful Detainer. You are not required to have an attorney, but the landlord will have an attorney in court. If landlord sues to evict for nonpayment of rent due after start of federal shutdown, tenant can get case postponed for 60 days by coming to court and giving written proof of not getting paid due to shutdown

## Referrals

Call the Housing Information Center at [\(703\) 228-3765](tel:(703)228-3765) if you have questions. You should understand what is happening. Call them also if you need help understanding these materials.

Call the Clerk of the Court at [\(703\) 228-7900](tel:(703)228-7900) to request a change to the court date.

Call the Lawyer Referral Service at [\(703\) 228-3390](tel:(703)228-3390) for attorneys who can speak to you for a nominal fee.

Call [Legal Services of Northern Virginia](#) at [\(703\) 532-3733](tel:(703)532-3733) to see if you qualify for free legal assistance. They also have created an [eviction information packet](#) and information about [COVID-19 resources for tenants](#).

Call the [Department of Human Services](#) at [\(703\) 228-1300](tel:(703)228-1300) for emergency rental assistance.

Call [Virginia Poverty Law Center's](#) Eviction Helpline at [\(833\) 663-8428](tel:(833)663-8428) for additional information.

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