

Eviction Process/Procedures

This procedural information is not intended to be a substitute for legal advice. This information may not address all situations that may occur. Any legal questions should be referred to an attorney. If the landlord wishes to terminate tenancy for any other reason and is not familiar with applicable landlord tenant laws, **THEY SHOULD SEEK LEGAL ADVICE.**

Steps of an Eviction

1. Notice to Cure or Quit for Non-Payment of Rent
2. Forcible Entry & Detainer
3. Writ of Possession
4. Day of the Eviction

General Eviction Information for Landlords

Many landlords have questions about how the eviction process works in Iowa. This document is intended to answer some of those questions by explaining how the process generally works. This is not a replacement for legal advice because there are many technical issues that may arise, as well as current codes and rulings that are constantly changing. **ADVICE FROM AN ATTORNEY IS ALWAYS RECOMMENDED.**

1. Notice for Non-Payment of Rent

If rent is not paid when due, the landlord must deliver a "NOTICE TO CURE OR QUIT" (Three-Day Notice form) to the tenant. This notice must state that the rent is due but unpaid, and the landlord intends to terminate the Rental Agreement in three (3) days if the rent is not paid. We do have the Three-Day Notice forms in the Sheriff's Office.

Notice to Cure or Quit

Notice to cure or quit needs to be served by one of the following methods:

Notice can be hand delivery to the tenant or resident that is at least 18 years old. The tenant or resident must sign and date the notice confirming that they have received it.

Notice can be posted on the tenant's door. If posting on the door, landlord must also send out a copy by certified mail and regular mail. Landlord must save receipts from the post office showing that the notice was mailed. The notice is considered served 4 days after the notice is deposited in the mail and postmarked. Therefore, do not begin counting the 3 days to cure or quit until after the 4 days for mail has elapsed. For example, the notice is mailed and posted on the 2nd of the month. The 4 days for mail would be the 3rd, 4th, 5th, & 6th. The 3 days to cure would be the 7th, 8th, & 9th. Landlord would be able to file their eviction on the 10th.

Notice can be served by personal service either by a process server or the Union County Sheriff's Office. An affidavit of service will be provided to the landlord after completion of service.

Counting Days

When counting days, do not count the day notice is received by the tenant(s). Count all days including weekends and holidays. However, if the last day falls on a Sunday or holiday the tenant should be given the following day to comply. Do not proceed to file a forcible entry and detainer suit until the time allotment has passed. When in doubt, give more time.

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Notice to Terminate Tenancy for Any Other Reasons

If the landlord wishes to terminate tenancy for any other reason and is not familiar with applicable landlord tenant laws, THEY SHOULD SEEK LEGAL ADVICE.

Next is the Forcible Entry & Detainer Notice

2. Forcible Entry & Detainer

All notices to terminate must be followed up by serving a Forcible Entry & Detainer Notice (FED), which is obtained from the Clerk of Court. This sets a court date for the landlord and the tenant to appear in court. The landlord will be requesting an immediate eviction. The landlord must have all copies of previous notices in the court file to have them available to present at court. Service must be completed three (3) days prior to hearing. The Sheriff must attempt service twice. If unsuccessful, the landlord may post, send by regular mail and send by certified mail.

Next is the Writ of Possession

3. Writ of Possession

When the Clerk of Court receives a ruling on a Forcible Entry & Detainer action in your favor, you will need to request that the Clerk issue a Writ of Possession. The Writ needs to be taken to the Sheriff's Office. You will need to schedule the Eviction determined by Sheriff's Office availability.

To schedule the eviction, please call the Sheriff's Office, Civil Division, at 641-782-7322 between 8:00 a.m. and 4:00 p.m. Monday through Friday (except holidays) to schedule an eviction time. The Sheriff's Office will be delivering a copy of the Writ along with a courtesy letter stating the date and time of the eviction to the address of the defendant. We require that this be done at least 24 hours prior to the eviction. It is not necessary to serve this order on the defendant, as we will post it on the door if no one is available. Evictions are typically scheduled for Wednesday the following week. Evictions are first come first serve basis in conjunction with Sheriff's Office scheduling.

Next is the Day of the Eviction

4. Day of the Eviction

The day of the eviction, we will expect the plaintiff or his or her agent to check the location to see if the defendant has vacated voluntarily. We will not respond until we hear from you. If you discover that the defendant has vacated before the eviction date, please inform our office.

At the time of the eviction, we will expect the plaintiff to provide enough manpower to complete the eviction in a reasonable timeframe. We recognize that unusual situations requiring some more time will occur occasionally. The process must be completed by 4:00 p.m. and will be scheduled with that goal in mind. Our function is to provide authority, keep the peace, and direct the procedure. The Sheriff's Office will not assist in the removal of any property.

We also request that the plaintiff provide enough boxes and large trash bags to facilitate efficient moving of property. If heavy rain or snow is imminent, it is suggested that sheets of plastic be used to cover the property to prevent unnecessary damage. The eviction will only be postponed because of more severe weather conditions. If a waterbed needs to be drained, we may request that you bring a pump in the interest of time.

If a refrigerator or freezer is involved, we will expect the plaintiff to secure the appliance so a child will not have access or remove the door.

We will have the plaintiff move the property to the curbside area. We expect the plaintiff to remove all property from the residence. Property left behind from the tenant will need to sit for a minimum of 24 hours after the eviction is conducted. The tenant will have 24 hours to retrieve said property. After 24 hours any property that remains will be deemed abandoned and can then be removed from the premises by the plaintiff.

If the defendant vacates voluntarily, it is up to the plaintiff to decide if they want to have our office stand by while any remaining property is removed. The plaintiff will be billed at \$25.00 per officer per hour plus mileage if he/she elects to have our office stand by.

If the eviction procedure is canceled, the plaintiff accepts any liability for property left behind.