



OFFICE OF THE STAFF JUDGE ADVOCATE
101ST AIRBORNE DIVISION (AIR ASSAULT) AND FORT CAMPBELL
CLIENT SERVICES
(270) 798-0910/0918

EVICITION - KENTUCKY

Legal Procedures for Eviction. Kentucky landlord-tenant laws allows landlords to evict tenants who fail to pay rent, fail to pay rent in a timely manner, or materially breach the rental contract. In order to evict a tenant, the landlord must (1) give the tenant written notice; (2) take out a detainer warrant against the tenant; and (3) win a court order against the tenant. It is unlawful for a landlord to lock out a tenant, to throw him out himself, or cut off the heat, electricity, gas, or water to force the tenant to move. If a landlord tries this, the tenant should call the police.

Right to Written Notice. If a landlord wants to evict a tenant, he must first provide the tenant with written notice according with the period stipulated in the lease. No particular format is required for this notice. If the lease does not have a notice period, if there is no lease, or if the lease has expired, the landlord has to provide the tenant with 30 days written notice to vacate the premises prior to filing a *Forcible Detainer Complaint* in the District Court. If the landlord provides you with a written notice to vacate, seek legal advice immediately.

Notice of Eviction Hearing. Once the landlord provides the tenant with written notice, he may file a *Forcible Detainer Complaint* in the district court where the property/tenant resides. The tenant will receive a document entitled *Eviction Notice: Notice of Eviction Hearing*. This document, along with a copy of the *Forcible Detainer Complaint*, will be either hand delivered to the tenant by an official with the title of Constable, or will be posted in a conspicuous location (usually the tenant's front door) and mailed to him by regular mail. The *Eviction Notice: Notice of Eviction Hearing* will provide the date for the hearing in the District Court. The hearing may not lawfully take place until 30 days have elapsed since the landlord's notice to vacate.

Eviction Hearing. The tenant has the right to a hearing before the District Court Judge. Should the tenant fail to appear in court, a default judgment will be entered against him. The tenant may demand a jury and he may obtain subpoenas for the attendance of any witnesses on his behalf. The judge will determine whether the tenant is in noncompliance with the rental agreement by failing to pay the agreed upon rent or whether some defense exists. If the finding is against the tenant, the judge will inform him that he has 7 days to vacate the premises. If the tenant do not appeal or vacate the premises within 7 days, the landlord may obtain a court order entitled *Eviction Notice: Warrant For Possession*. This order is provided to the local Sheriff who must, within 3 days, make arrangements with the landlord to meet at the rental property at which time the Sheriff will maintain the peace while the tenant and his belongings are evacuated from the premises.

Appealing the Decision. The tenant must file a *Notice of Appeal* with the Clerk of the District Court within 7 days of the judgment against him. The tenant must file a *Statement of Appeal*, with 2 copies and a \$60 filing fee, to the Circuit Court, Third Judicial Circuit, in Hopkinsville within 30 days. The tenant is required to deposit with the Court Clerk an amount equivalent to any unpaid rent as well as any future rent that becomes due while the appeal is pending. The Circuit Court will review the written submissions on appeal as well as video of the eviction hearing. The tenant will not personally appear for the Circuit Court. The *Notice of Appeal* and *Statement of Appeal* are legal pleadings, which must be drafted in a particular way and format. The appeal must be supported by sound legal argument or there will be no reasonable likelihood of success.

Delayed Eviction under SCRA. The Servicemembers Civil Relief Act (SCRA) offers active duty servicemembers and their dependents additional protections from eviction for nonpayment of rent. Unless there is a court order, a landlord may not evict a servicemember or his dependents if (1) the member is on active duty; (2) the premises is occupied or intended to be occupied primarily as a residence; and (3) the monthly rent does not exceed \$3,217.81.¹ Once the court receives an application to evict an active servicemember, the court will decide if the servicemember's ability to pay the rent is materially affected by military service. If so, the judge will stay the eviction for a period of 90 days unless he thinks a longer or shorter period is needed. The judge may also adjust the obligation under the lease to preserve the interest of all parties.

The Uniform Residential Landlord and Tenant Act (URLTA) establishes different procedures for eviction in the following counties: Barbourville, Bellevue, Bromley, Covington, Dayton, Florence, Lexington-Fayette County, Georgetown, Louisville-Jefferson County, Ludlow, Melbourne, Newport, Oldham, Pulaski, Shelbyville, Silver Grove, Southgate, Taylor Mill, and Woodlawn Counties. For more information about the process for eviction in the counties covered by the URLTA, go to <http://kyjustice.org/node/707>.

More information. Contact the Fort Campbell Client Services Office, Building 2765 Tennessee Ave, at 29th Street, (270) 798-0910/0918, or book an appointment with an attorney at www.sjaclientservices0366.setmore.com, or visit the Fort Campbell Housing Office, 850 Georgia Ave & 16th Street, (270) 798-3808.

¹ 2014 amount; see the Consumer Price Index at <http://www.bls.gov/cpi/tables.htm>.