

## Eviction Procedure:

**(1)** Prior to filing an eviction action, the landlord must serve the tenant with a written notice. Listed below are the three types of notices supplied by the St Lucie County Clerk's Office. Service may be made by hand delivery or posting the notice in a conspicuous place on the property.

**(A)** [3-DAY NOTICE](#) - Use if the tenant has failed to pay rent and you would allow the tenant to remain in the premises if the rent is paid in full within 3 days after delivery of the Notice (excluding Saturday, Sunday and legal holidays). See F.S. 83.56(3).

**(B)** [7-DAY NOTICE](#) - Use if you want possession of the premises restored to you regardless of whether any rent is due and the tenancy is from week to week. Do not include the date of delivery in computing the 7 days, but do include weekends and holidays. See F.S. 83.57(4).

**(C)** [15-DAY NOTICE](#) - Use if you want possession of the premises restored to you regardless of whether any rent is due and the tenancy is from month to month. Do not include the date of delivery in computing the 15 days, but do include weekends and holidays. See F.S. 83.57(3).

If the rental agreement contains no provision as to the duration of the tenancy, the duration is determined by the periods for which the rent is payable. If the rent is payable weekly, then the tenancy is from week to week; if payable monthly, tenancy is from month to month.

**(2)** Once the time expires on the preliminary notice, a landlord may either file a [Petition for Removal of Tenant](#) (for possession of the premises only) or a [Complaint for Possession](#) (for possession of the premises and back rent/damages). You must provide the following to the Clerk at the time of filing:

**(A)** An original Petition or Complaint and two copies of each for each Defendant

**(B)** One copy of the preliminary Notice for the Clerk and two copies for each Defendant

**(C)** One copy of the lease or written rental agreement plus two copies for each Defendant. It is extremely important to file copies of all written leases and agreements. Failure to file all written documentation when the case is initiated may cause a delay in the Court determining the outcome of your case.

**(D)** One stamped, legal size envelope addressed to each tenant for mailing a copy of the Complaint, Summons and lease to the Defendant. Make sure you use sufficient postage.

**(E)** \$195 plus \$10.00 per summons/per defendant filing fee payable in cash, check (with proper identification), cashier's check, money order or credit card (with proper identification) payable to St. Lucie County, Clerk of Court.

**(F)** Service may be made by Sheriff or private process server. The sheriff's fee is \$40.00 per defendant, payable in cashier's check, money order or business check to the St. Lucie County Sheriff's Department. The Clerk cannot accept cash for the sheriff's fee. If you wish to pay the service fee with cash, you will be responsible for delivering the eviction to the Sheriff. The Sheriff's Department, Civil Division, is located at the St Lucie County Courthouse, 218 South Second Street, Fort Pierce, Room 133.

If you use a private process server you must provide the Clerk with the name and

telephone number of the server. Many process servers have Courthouse boxes for pick up at the Clerk's Office in St. Lucie West. You must make arrangements with the server prior to filing and notify the server when you have filed the papers.

\*PLEASE PROVIDE A TELEPHONE NUMBER ON YOUR COMPLAINT IN THE EVENT THE CLERK'S OFFICE OR SHERIFF'S DEPARTMENT NEEDS TO CONTACT YOU.

**(3)** If you file for possession only, the Clerk will prepare a [Summons for Removal of Tenant](#). The Summons notifies the tenant that they have five working days (excluding the date of service, Saturdays, Sundays and legal holidays) to file a written response to the complaint, deposit any rent due into the Court Registry or provide proof of payment of the same or vacate the property.

If you file for possession and back rent, in addition to preparing the aforementioned Summons, the Clerk will prepare a Summons/Notice to Appear for Pre Trial Conference (see Small Claims section for complete process and procedure for back rent portion of your claim). Remember at your pre trial conference to have an exact amount due to give to the Judge. You may file an [Affidavit of Amount Due](#) giving a breakdown of how you arrived at your total amount i.e. rent amount with period of tenancy; damage amount; filing fees; etc.

**(4)** SERVICE OF PROCESS - The Eviction Summons can be either personally served or posted on the rental premises. The Summons and Complaint may be posted to a conspicuous place on the property after the deputy or server has made two attempts for personal service not less than six hours apart and the tenant cannot be personally contacted. See F.S. 48.183(1). However, the Summons for Pre Trial Conference must be personally served on the tenant or a resident of the property who is at least fifteen years of age or older to pursue your claim for monetary damages.

**(5)** If the tenant files an answer, the Clerk's Office will forward the file to the Judge for review. The Judge will determine whether a hearing will be held or will enter a written decision. If a hearing is held, the Clerk will notify all parties by mail. Eviction hearings are expedited so you may wish to contact the Clerk's Office after an answer has been filed.

**(6)** If the defendant does not file a written response or vacate the property within the five working days, it is the landlord's responsibility to notify the Clerk's Office. Upon request, a Final Judgment by Default and Warrant for Possession will be entered by the Judge.

**(7) Warrant for Possession: After entry of the Warrant, you may pick the Warrant up from the Clerk's Office and deliver it to the Sheriff's Department, Civil Division located in Room 133 at 218 South Second Street, Fort Pierce. The Sheriff will charge \$90.00 for posting and executing the Warrant. The Sheriff will post the Warrant and 24 hours later (excluding the date of posting) would meet the landlord or an agent at the property to turn possession over to the landlord.**

#### **Reminders:**

\*Acceptance of rent after filing of the eviction Complaint cancels the eviction. If the landlord wants to proceed with eviction, the landlord should instruct the tenant to deposit the rent into the Court Registry.

\*If a payment agreement is reached it must be in writing to be enforceable. All parties must sign the agreement. The agreement should specify exactly when payments are to be made and what will happen if either party defaults on the agreement.

\*These procedures apply to St Lucie County only. Each county can differ in their eviction process.