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## **Writ of Possession (Eviction by the Sheriff)**

You do not have to move simply because a landlord says so orally or in writing, or files a Summons for Unlawful Detainer in court. However, if your landlord gives you proper written notice, files a Summons for Unlawful Detainer, goes to a court hearing, gets an Order of Possession from the court, and gets a “Writ of Possession” from the court, you almost certainly will have to move.

### **What is a “Writ of Possession”?**

The Writ of Possession is the court form (usually on yellow paper) that allows the Sheriff to evict a tenant. Only the Sheriff, or some other law enforcement officer, can make you leave, or put you and your belongings out. Your landlord can not make you leave, or put you and your belongings out.

### **When can a Writ of Possession be issued?**

If you go to court on a Summons for Unlawful Detainer, the judge must give you at least ten (10) more days to move. Your landlord may not get the Writ of Possession until after this ten (10) day period.

*If you do not go to court and the Summons for Unlawful Detainer is based on your nonpayment of rent, your landlord may get the Writ of Possession right after the court issues the Order of Possession.*

### **What happens after the Writ of Possession is issued?**

The Sheriff must take the Writ of Possession to your home. The Sheriff must serve (legally deliver) the Writ. There are three ways to do this.

- Given to you in person.
  - Given to a member of your household. The household member must be 16 or older.
- The Sheriff serving the Writ must explain what it is.
- Posted on your front door and then mailed to you by first class mail.

The Writ must say the date and time after which you will be evicted. The Writ must give you at least 72 hours advance written notice of the date and time the actual eviction will take place.

## **What does the Sheriff do when evicting a tenant?**

Usually, the Sheriff will let you gather up a few personal belongings and then make you leave. The Sheriff then will change the locks, or allow the landlord to change the locks, and give you 24 hours to contact the Sheriff to re-enter the premises and remove the rest of your belongings. If you do not remove your belongings within this 24 hour period, they may be considered abandoned.

## **What if make payments to the landlord after the landlord gets an Order of Possession from the court?**

*Simply making payments to the landlord after the judgment or Order of Possession will not stop the eviction process.* The landlord can take the tenant's money and still proceed with eviction (for up to one year after the judgment). You can pay everything you owe after the judgment and be completely current, and your landlord still can evict you (for up to one year after the judgment). There are only two ways to stop this.

(1) If your landlord takes your money, paying the judgment in full, after the judgment of possession, your landlord must give you a written notice within five (5) business days accepting your money with reservation. "With reservation" means your landlord is keeping (reserving) the right to evict. If your landlord does not give you this written notice, it may be possible to stop the eviction. If you did not get this notice and still face eviction, get legal help right away!

(2) If you pay everything owed, in full, and you and your landlord enter into a new rental agreement after the judgment of possession. In this case, it may be possible to stop the eviction. Some examples showing a new rental agreement has been entered include these things.

- You and your landlord sign a new lease.
- You receive a new notice of termination of tenancy from your landlord based on something other than non-payment of rent.
- You pay & your landlord accepts rent for a new rental period before the rent is due.

Even then, you should check with both your landlord and the Sheriff to make sure that the eviction has been cancelled. If the eviction is not cancelled, get legal help right away!

## **What if I paid the landlord in full before the landlord got an Order of Possession from the court?**

If an unlawful detainer is filed, you can prevent eviction only once every 12 months that you continue to live in the same place by paying amounts owed. You must pay these amounts owed on or before your first court date to prevent eviction. These amounts owed are: (1) all rent and arrears, (2) late charges and attorney's fees contracted for in a written rental agreement, (3) interest and (4) court costs. If you did this and still face eviction, get legal help right away!